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THE IMPACT OF FEDERAL POLICIES ON HIGHER EDUCATION INSTITUTIONS

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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HIGHER EDUCATION PROGRAM
COLLEGE OF EDUCATION
UNIVERSITY OF ARIZONA

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November, 1977

FOREWORD

In this nation, the development of higher education, its governance, and the largest share of its support have with a few exceptions been the responsibility of private groups and state and local governments. This characteristic differentiates higher education in the United States from many other countries and has strongly contributed to the diversity, flexibility and accessibility of colleges, universities, and professional schools in this country.

State, local, and private regulation of education is as closely guarded as free speech, suffrage, and search and seizure. Federal poaching in state, local, and private waters is therefore hazardous. But it is done, usually covertly with compelling lures.

Along the Potomac, the importance of the higher education establishment in helping achieve certain social, economic, and political goals mandates the support by federal agencies of those institutional activities useful in the achievement of national objectives. Such federal investments in public and private institutions of higher education have generally paid off handsomely: abetting the western movement, supporting the industrial revolution, bolstering national security, and dispensing social justice.

In the last few years there have been some remarkable changes in the direction and amount of federal influence on higher education. The 1202 Commissions were conceived, financial aid to students was favored over certain types of institutional grants, and the scope of federal support was broadened from higher education to postsecondary education. All of these changes are having profound effects upon higher education in this nation.

With an awareness of the changing role of the federal government in mind, the Educational Commission of the States along with the Higher Education Program of the College of Education at the University of Arizona cosponsored a conference to examine the impact of federal policies on the operations of higher education institutions. This publication brings together papers presented at that conference by a number of experts who have had considerable experience with the influence of the federal government on higher education.

The chapter written by Russell Thackrey was not given as a paper at the conference but was part of a communication to Dr. Durham. It contains some perceptive insights into the governmental process and provides such valuable history of the Miller Bill and other attempts at federal legislation that it was considered important to include it in the publication.

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MAKING HIGHER EDUCATION POLICY AT THE NATIONAL LEVEL

Ralph K. Huitt

Perhaps you are all familiar with the story of the mouse that was cornered by a cat. He squeaked out to a friend, "What should I do?" The second mouse said, "Turn yourself into a dog. It will scare hell out of him." The beleagured mouse said, "How do I do that?" The second replied, "I don't know. I just make policy."

The second mouse should be glad his friend wasn't cornered by the federal government. He would have found that even making policy is not easy.

I think we begin with the policy system. The umbrella concept is an American social system. An important component of that social system is a political subsystem. This subsystem, in turn, has many subsystems. They may be defined in structural terms – that is, legislative, executive, judicial – or in policy terms, such as education, health, etc. I will use the subsystem concept both ways, but I will be most concerned with the higher education policy subsystem.

The first step is to recognize that it is not "Congress" or the "White House" or "HEW" that the subsystems deal with. Congress, for instance, is a corporate body only in the legal sense. Congress consists of two houses, and it may be said that "two houses do not make a home." The two bodies must agree ultimately on the exact wording of an act, but this is accomplished by a conference consisting of small numbers of the two subcommittees that put together the bill in the first place. Generally speaking, the two houses get together only to hear the president or some foreign potentate. For groups interested in policy there is an occasional vote where the whole body is involved, the most spectacular example being the very occasional effort to override a presidential veto. For the most part, however, policy-oriented people must work with subcommittees, and even more accurately, the most important people on them. In the House of Representatives that would mean a half-dozen members at the most. In the Senate, because of the large number of assignments individual members have (running close to thirty in some cases), the number will be smaller. The famous "Education Amendments of 1972," for instance, passed the subcommittee unanimously, the full committee unanimously, and the Senate also without a dissenting vote. But it is no secret that only the chairman, a few colleagues, and staff knew very much about what was in the bill.

So it is with the executive branch. A handful of persons in key departments and agencies such as HEW, the National Science Foundation, the National Institutes of Health, and constituent agencies of these organizations will matter to higher education interests. The partnership of the land-grant colleges with the Department of Agriculture is well-known. The heads of these large units,

secretaries, and directors may well be included. Whether they are depends pretty much on how the boss feels. If the president wants to be known as the "education president," as Lyndon Johnson did, it is possible for Frank Keppel and Harold Howe to make great and deserved reputations as aggressive and creative commissioners of education. If, as has been true the last eight years, the presidents have put education low on their list of priorities, the track is slow for good and able men, as James Allen, Sidney Marland, and Ted Bell were and are. It must never be forgotten that the persons the president appoints are **his** persons. They cannot afford to get too far in front of the president on **any** issue. The brutal dismissal of Mr. Allen was a case in point. He was fired toward the end of the day and given until the close of business to clear his desk. At 5:15 he found his limousine had been canceled, and he had to find a cab to go home.

This is true of the grand dimension of policy in the executive. Still it is a fact there, as in Congress, that a relatively small number of people in the departments, agencies, and OMB give the shape and vital details to education policy. Certainly, everyone knows that no important law can be enforced or obeyed until someone has written regulations or guidelines for it. The persons who wrote the law may well be **not** as important to the outcome as the persons who say what the law means. And no one who has worked closely with bureaucrats needs to be told how often they are indifferent to what is called "legislative intent." The members try to spell it out in committee hearings and reports and in statements on the floor, but if the civil servant sees himself as the "professional" and the members as amateurs and loves to say how many presidents and secretaries he has lived through, he is the master to whose tune we dance.

The courts are another matter, of course. They seem these days to be willing to take any case, to decide any policy issue, and even to carry out their own orders if they deem that to be necessary. A case in point is the order by federal Judge John Pratt to HEW to require 17 southern states to make acceptable plans to desegregate higher education within their borders. He has declared that if he is not satisfied with the plans he will take on the job himself. The American people have to be pushed very far to rebel against the courts. Moreover, a decision against **any** college, however small and ill-represented by counsel, becomes a precedent which may be used against all. Courts make much policy but they cannot be lobbied. All that avails is good legal counsel and, perhaps, prayer.

These constitute the official participants in the policy subsystem for higher education. There are unofficial participants who are as much a part of the subsystem as the official participants are.

The first I will mention are the media. No American in public or semipublic life can fail to know how helpful and how oppressive the media can be. Once again, there are specialized actors. The *Chronicle of Higher Education*, the *Higher Education Daily*, *Change* magazine, and the association and professional journals come to mind. I suspect that they influence policy in the sense that the specialists in official agencies tend to read them, or at least their staff may. Otherwise, they inform the education community more than they do the larger

community – if indeed they reach the latter at all. The most influential, of course, are the giants which are read every day by most politicians and officials in Washington. *The Washington Post*, the *New York Times*, and the *Wall Street Journal* often have an immediate and visible effect on education policy. But the lesser papers out in the country must not be written off. Just as every boy has a mother, so every local newspaper has a congressman. To the member of Congress that local newspaper just may be more important than the biggies. For instance, our Association once brought a number of land-grant college presidents to town for a breakfast with farm-state congressmen and a news conference. They were here to argue that more support for agricultural research was necessary if famine were to be eliminated in less-developed countries. Not one word about that appeared in a Washington paper. Washington, D.C., produces few crops. But not so in the Midwest. Thousands of column inches were printed there, and no doubt midwestern congressmen saw them.

Newsmen, like other people, must be influenced by somebody. But this is tricky terrain. Newsmen are almost as sensitive as judges about anyone trying to influence them. A press secretary to the president once told me that the best way to get along with the press was to help them do their jobs: have some idea of what was "newsworthy," help them meet their respective deadlines, provide them with all the backup they needed. Beyond that, I think we should tell the truth and hope for the best.

The last informal participants I will mention are the higher education associations, which are as much a part of the higher education policy subsystem as are the formal participants themselves. They are a part of the establishment and are indispensable to the formal participants: they tell the formal bodies what higher education wants and what it can live with. They give their constituents an interest representation which complements the geographical representation provided by elected representatives. They perform the same function for their constituents and, on their behalf, services to official government as do associations representing business, labor, professions, and the like.

Associations representing interest groups originated largely in the latter half of the 19th century. Berle and Means in their classic book, *The Modern Corporation and Private Property*, describe what they call the "dissolution of the property atom." In classic capitalism, the component parts of property – ownership, management, and control – were bonded together. The owner of property also managed and controlled it. This was the kind of private property Adam Smith wrote about. With the coming of the giant corporation, these parts separated. Owners – that is, stockholders – might have little or no control over the corporation, which could be dominated by people with a very small percentage of stock. The corporation usually was run by professional managers who were neither owners nor controllers and were virtually interchangeable. This arrangement permitted the amassing of great amounts of capital under one focus of control. Berle and Means saw this as a "corporate revolution" comparable in its effect to the amassing of labor and machines under one roof which was called the "industrial revolution."

David Truman, in his book *The Governmental Process*, tells how this newly created giant upset the power balance in the economy. Laborers, farmers and small businessmen found themselves unable to cope with the new colossus. Their response, after much trial and error, was to band together in associations (called unions by labor) which gave them some chance to compete on nearly equal footing.

The association has become the chosen instrument of organized interests. It was encouraged by President Wilson during World War I because he preferred to negotiate with organized interests rather than individual groups and businesses. The proliferation of associations has been so great that many Washington buildings are devoted wholly to them. Number One Dupont Circle is an example. The National Coal Association has a building downtown which, appropriately, is glossy black. The Teamsters Union has a building on Capitol Hill which is, appropriately or not, blinding white. And they continue to multiply. Hardly two months ever pass without some segment of our association asserting that they separately should have a "Washington presence."

Now what do these precious associations do? There are some functions which are virtually universal among associations, whatever their interests. One is the gathering and dissemination of information about what is happening in higher education and in Washington. The latter is especially important. Despite the boasts of the media, it is safe to say that no more than a dozen cities have newspapers with even fair coverage of Washington. Test this sometime when you are on vacation or manage to be ill for an extended time in a fair-sized city which has in its boundaries the state capitol and the state university. I think you will be appalled at the information level most Americans work on. That is why the newsletters and magazines of their interest groups matter to them.

A second common function is telling the world. The research and information office is mandatory, however small. Few associations, even the big ones, do research in the sense that a university does. They are not searching for scientific truth but for information about their members and the education world which will help them formulate and defend their constituents' interests. The office usually is headed by a professional journalist who knows how to get and keep the respect of his colleagues in the media and what they are likely to use. If he can get a favorable editorial in *The New York Times* or *The Washington Post*, he deserves a month's expenses-paid vacation in Hawaii.

The best-known function of associations is representation – often called "lobbying." Recently I made such a statement, and a listener inferred that I was critical of lobbying. My reply was that if lobbying is bad I will certainly go to hell. How do law-makers and law-enforcers know what we want if they are not told? The "federal relations officers" who do this must understand everything about the system which I said at first, and beyond that they must know the people who matter and have their trust. I emphasize the latter. The coin of the realm among politians is honesty. Notice I said among politicians: I would not argue that all politicians are honest all the time. But politics is an activity in which contracts are not made and liars cannot be sued. When one does not tell

the truth to or keep his word with a politician, all the latter can do is, as one old congressman put it, "forgive – and remember." The association lobbyist must deal even-handedly with both parties. And he must deal above the table. The growth of the association as the principal instrument of influence has checked the corruption in lobbying so prevalent in the late 19th century. The several investigations of lobbying at the national level made in this century have discovered little corruption. The reason is simple. A fifty-year-old association has too great a stake in the name and reputation it has established to risk them for any short-run gain.

The principal differences among associations turn pretty much on the extent of their services to members. Some perform many services, others almost none. Some services in higher education are accreditation, staff training, seminars, and the like. Some give advice on policy and education practices. Another difference turns on the extent to which the association tries to serve its constituents in their relations with their respective state governments.

One sharp limitation on the national effectiveness of associations representing public institutions is that their constituents are primarily concerned with their state governments. Much of the huge sums the federal government puts into higher education are in the form of assistance to students. Appeals for institutional aid have been stoutly resisted by Congress, and it may be stated with assurance that "institutional assistance" is a dirty word on Capitol Hill today. Institutional heads therefore array their troops to protect budgets and influence laws in their state legislatures and with the governors. These troops, like the guns in the Maginot Line, cannot be turned in the other direction.

Finally, the fortunes of higher education at the national level do not turn only on the machinations of staffs of associations. Certainly, much more important is the climate in which they must operate, the confidence and approbation, or lack of it, on the part of the public.

This is a bad time for institutions and leaders generally. The Viet Nam War, riots and disorders, and the bitter taste of Watergate tend to make the public give bad grades to all who serve them. No institution seems to enjoy the ready trust which once reposed in all of them.

Higher education has some special problems which are at least partly of our own making. One is the afterwash of the student disorders of the late 1960's. Superficially, we seem to have come out of them pretty well. The students are attractive and attentive to learning once more. The legislatures of states and nation passed no punitive legislation and did not cut appropriations as punishment. But there are signs that deeper down there is serious damage. One is the erosion of the authority of the head of the institution, the president or chancellor. I am not speaking of **power** but of moral authority – the acceptance of him or her as a legitimate leader of a great community moral resource. Heads of institutions shuttle in and out, badgered by trustees, legislators, and self-appointed critics. And public officials no longer go automatically to the defense of the university, as they once did.

Another cause of decline in public trust which I believe all will agree with is the profound mistake we made in the heady climate of the 1960's in allowing expectations to be established which went far beyond any possibility of delivery. Now we must accept, and get the public to accept, the limits of the profoundly useful functions we do perform – to generate new knowledge, teach it to others, and perform certain public services within the ambit of our basic mission. I do hope that our urban universities, in their praiseworthy effort to get more support and perform more services, do not overpromise. In my view, an urban university is a university in a large city–no more, no less. Of course, its special environment will affect the ways in which it chooses to carry out its classic roles. But it cannot and should not try to perform the services of government, even though that means the services will not be performed.

Again, we certainly must have allowed too much to be said about degree-holders making more money than people who lacked college education. I am sure that is still true, especially if the test is applied several years after graduation, but we should not have to be defending ourselves now against the charge that a boast we should not have made was not true.

Finally, I believe profoundly that our greatest national weakness is that we have failed to make the American people know what a college and university are and what are the ancient social assignments they carry. Let us begin with public officials. I have heard too many members of Congress say they have never been on the campus of the public institution in their hometown. Too many members of appropriations subcommittees say they have no idea where research money goes. I have seen too many public celebrations of academic events with no public official on the platform. The problem of how to make the American people understand higher eduction is vast and there are others better able to deal with it than I. But public officials at the national level present no problem. Their names are in the book. And virtually every one has a college degree. Ignore them if you please. There are plenty of other interests which will not.

FEDERAL IMPACT AND HIGHER EDUCATION SYSTEMS

G. Homer Durham

Higher education systems include governing and/or coordinating authorities, central system offices, and the institutions comprising the system. "Federal impact" has been felt on these elements in reverse order. At the institutional level, the larger, complex state universities have experienced "federal impact" longer and in greater scope and detail than other system elements. This paper reflects the influence of such universities within state systems generally and the effects federal relationships have played on them in recent years. My experiences as academic vice president of such an institution for nearly eight years (1953-1960) including its College of Medicine, as president of another large state university for nine years (1960-1969), preceded seven years as chief executive officer of a comprehensive statewide governing board (1969-1976). What one sees depends on where one stands. Standing now as a research professor, I will attempt to view the "federal impact" on higher education systems in both retrospect and prospect.

For twenty years following World War II, most American universities and colleges, particulary those engaging in contract research and medical education, lived in a state of euphoria so far as federal "support" was concerned. Despite some pesky regulations on the GI Bill and project research, this feeling was sustained by generous federal grants. Only modest controls and regulations prevailed. "Federal aid without Federal control" was the prevailing myth. The powerful universities learned to cope, live successfully, and even boast of their growing research sustained by federal support. Reimbursed overhead was, to many, a boon.

Central authorities of state systems, on the other hand, were touched less by the impact of ever-expanding federal regulations and programs. They were one step removed from this process. As regulations mounted, university leaders became more suspicious. On the other hand, some state coordinators wondered "why not get us a grant?" Very few central offices had staff members seeking or prosecuting project research as principal investigators. D.S. Greenberg's famous *Science* character (Dr. Grant Swinger, Director of Breakthrough Institute: Center for the Absorption of Federal Funds) swung on the campuses but not in state offices. Accordingly, state coordinators and chief executives by the mid 1960's were not as familiar with the subtle inroads being made into institutional integrity as were university presidents who remained optimistic about their federal support and research prowess. Meantime, federal legislation such as the Higher Education Facilities Act, Title I, the Extension and Community Service Act, and Section 1202 of the 1972 Higher Education Act was tending to encourage establishment of new state decision-making bodies in higher education.

The "Great Society" of the Johnson Administration, including the Civil Rights Act of 1964, got under way as the State Higher Education Executive Officers (SHEEO) began to gather strength. It is curious to note, that as the federal impact began to prove burdensome to the institutions, state offices through SHEEO, toward the end of the sixties, began to press for federal grants to support their statewide planning operations. As institutional leaders began to fret more and more, feeling the growing burdens, the SHEEO group after 1969 were meeting with officers of USOE urging and encouraging considerations for such things as better packaging for student aid programs (often through state offices) and for funds for what became the 1202 Commissions under the 1972 amendments. Although some experienced dismay when the 1202 draft guidelines were issued, the net result to date has been that, generally speaking, state offices have not yet felt the degree and kind of impact experienced by institutions.

The fact remains that whatever affects system institutions, whether coordinated or governed, soon affects the nature and character of systems as a whole. Accordingly, today, due to their own experiences and frustrations (including those with the sought-after 1202 Commissions) and the rising complaints received from institutional presidents, state systems are beginning to realize that the federal impact is not only burdensome but oppressive. The federal impact on large, powerful campus autonomy strengthens attitudes of restiveness against any control requirements requested by state system offices. The result is to make more difficult the tasks of central offices. The natives, one might say (speaking of the institutions), are restless and the easiest object of reproach is state system offices.

A long catalogue of statutes, regulations, and federal agencies could be listed without much point. A 1976 study made by the State University of Iowa may be cited as illustration ("Impact of Federal Regulations"), not to mention the protests of the costs, staff time, and volume of paper required to comply with federal regulations (Winkler, Dec. 13 & 20, 1976).

My conclusion is that the time has come for state system offices to decide whether they identify with their institutions' basic purposes, i.e., learning, research, public service, or with the regulationists. The issues are not black and white. The interstitial connections are mottled and speckled. But if present tendencies continue, the issue is clear.

What might be done at the federal level? My answer to that question is as follows.

1. It is high time for the Miller Bill or something like it to be revived. The Miller Bill died in 1969. It represented a long, careful, and tedious effort by the National Association of Universities and Land-Grant Colleges, guided by Russell I. Thackrey, to begin to replace, or at least parallel, the project research system with institutional grants similar in character to those which had characterized the land-grant system since the passage of the Morrill Act in 1862 (Thackrey, pp. 9-16, 1976).

2. Having witnessed the rising impact after 1945, the initial euphoria, followed later by growing dismay, enjoying life on several campuses, working in leadership positions in two systems, and observing many others, I conclude that if learning in any of its ramifications in our society is to flourish, the institutional grant, the Morrill Act–Miller Bill pattern, must quickly be revived. State systems should support such measures.

3. The central importance of learning, of research, and of the knowledge industry to the well-being of mankind (and particularly to our nation) as well as educational opportunity has to be recognized. Universities, colleges, and our society need freedom. Students need opportunity from whatever background. The Morrill Act and the land-grant system demonstrated what can be done with federal support which insures freedom of institutional initiative and the largest degree of autonomy (Thackrey, 1971, pp. 135-137). Freedom, autonomy, and helpful but restrained federal support are vital in the next few decades to the health of America's knowledge industry.

   Some years ago I wrote, "A free university is an ingenious structure for the preservation of freedom . . . a guarantee against the danger of a passionate faction or a single-will state . . . a system of many little republics of knowledge" (Durham, pp. 67-71). Learning from the federal impact, state systems must maintain and encourage this quality in their member institutions, restraining their own or any tendency to over-control. The traditions of academic freedom and institutional autonomy are well established on the campus. They relate to and support the fundamentals of the traditional American constitutional system. What is badly needed is widespread political recognition of these elements.

4. The kind of action that should follow from the federal and state governments should, then, provide needed financial support together with the recognition that the governmental role in America must assure (1) diversity in higher education, (2) strong identities on the part of individual institutions, (3) institutional integrity, and (4) wise governance. Only if these conditions are met can the optimum energies be devoted to enlarging our human potential in rich diversity.

5. There must be a return to the elemental constitutional principle that education, its support and provision, is primarily the responsibility of state and local governments and of the private sector. The federal support role will be well advised to be guided by this principle. One of the frightening phrases I hear from time to time by well-meaning officials of USOE is "the Federal-State partnership" in higher education.

This "partnership" more and more has become regulation to the end that universities and colleges are now among the most highly regulated "industries" in our national life. Consider what has happened to records and record-keeping alone. I think we should forget talk of the "Federal-State partnership" and talk about the **responsibility** of the state, local, private sector, and the **role** of the federal government in using its fiscal strength and capacity to **support** the state-local-private role in higher education.

The legal framework for education, substantially provided by state governments for both the public and private sectors, has been well established. This framework continues to evolve and develop—witness state systems, community colleges, technical institutions.

The states have provided varying procedures for accommodation to diversity, to individual roles, and to necessary change. The rise of new institutions in new centers of population, such as Arizona State University which I was privileged to head for nine years and the Arizona community colleges, show that after long, careful (and sometimes painful) consideration, the states are responsive to growing needs and the necessity for change, while yet protecting the historic position of such institutions as the one which hosts us today, the University of Arizona. In the meantime Arizona has also permitted the former Arizona State Teachers College at Flagstaff to become Northern Arizona University.

The Tenth Amendment to the Constitution may have been rendered inoperable by the power of Congress to tax, spend, and regulate commerce. But Congress and the President can show wisdom and restraint. Federal support should recognize this fundamental constitutional provision. Fear of loss of civil rights, and setting back the Civil Rights movement by the consequences of generous block grants, may be partially allayed by the new influence of America's black citizens, as demonstrated in the election of the former governor of Georgia as the current President of the United States. While advancing the purpose of the Civil Rights legislation—preventing discrimination, encouraging opportunities on all fronts—we must save the nation's colleges also.

Where are state systems in such a milieu?

1. The principal components of any state system are naturally its institutions. First, therefore, universities and colleges must demonstrate their acceptance of legally-assigned roles in the state system. This will reassure legislatures and help enlist their political influence respecting optimum freedom for their institutions. The most sensitive elements in any system, always, are the large complex state universities. Their graduate, research, medical, and other professional schools are especially sensitive to any internal role assignments by external authority. State systems appear to threaten such from time to time. But no sensible statewide board is going to interfere or diminish the real role of such institutions. At the same time the powerful institutions have to exercise some *noblesse oblige*, and recognize the fact that technical institutes, community colleges, and the needs of the general population at the postsecondary level must be widely met. The major state university with its complex professional graduate schools, and important TA's, rarely provides the atmosphere of patient long-suffering which must attend the learning processes of some segments of the community college. At the same time, the universities have to appreciate that from the community colleges will come some, perhaps more brilliant than their own entering freshmen, who will go on to become Rhodes Scholars, outstanding Ph.D's, and prominent research workers. Gold is where you find it.

2. The federal impact teaches that member institutions must increasingly recognize that current ways and means of change include state coordination or governing authorities. Institutions have done an excellent job in times past in educating local trustees and regents to the necessities of institutional life. There is no reason why state coordinating boards and state governing boards cannot be so illuminated–if they are not already sensitized to the significance of the institutions in their purview.

With some contrast in emphasis with my friend and colleague John Millett (Millett, p. 17), it is my view that a statewide board and staff must serve as advocates of higher education and not as an arm only of the state legislature, governor, federal, or "control." Perhaps my difference with John (and I believe we are the only two large state university presidents who served in statewide executive positions–he as a coordinating authority and I as officer of a governing board) lies in the fact that coordinating authorities are more likely to function as arms of regulation and control. A statewide governing board is inevitably thrust into the primary role of advocacy, while "coordinating" between times. The time is here for state coordinating authorities to accept the advocacy role, and with them persuade governors and legislators. The latter can still advocate while denying the whole budget request. The way back to such statewide advocacy, pride, and support is not easy. But I believe it is under way. It is essential to the welfare of our universities, colleges, and our society.

Statewide coordinating and governing boards, at the same time, must convince governors and legislators and the public that they are not "patsies" nor rubber stamps for ambitious "self-seeking institutional bureaucracies." Devotion to learning must characterize both the institution and its responsible authorities, local, and statewide.

3. A third vital element in the effort to adjust federal "impact" to federal "support" is that more and more institutions (particularly the powerful state universities with large, expanding alumni, and other influential support) must realize that as institutions get into politics, politics will also invade the university or college. Those who live by the sword, increasingly live by the sword. The defense of any public agency is always a *sine qua non* of its existence. But universities and colleges live to learn that in the long run, if they steer decisively, steadily, and steadfastly towards learning, such a course will be the best defense and the best "politics," leaving the more direct confrontations to the central board and offices. I have found myself in minority in this view on many past occasions. But I have also observed legislatures and legislators both as university president, as political scientist, as legislative consultant, and statewide chief executive over the past forty years. There are times of crisis when political support has to be marshalled, summoned, and the "charge" sounded. But for a single university to approach every legislative session with a "grand strategy," and an overwhelming program of breakfasts, lunches, dinners, swarms of agents in the capitol, arm-pulling, constant pressure, and fixing, is self-defeating both for the university and for the system. On the other hand, where institutions blend

integrity with restraint, where students, affected service groups, parents, and the public are pleased and proud (and a good football team helps), institutional strongarm methods are replaceable by soft-spoken, responsive communication, and reliance on the state board. Accordingly I would urge institutions to look at the long-range means of securing support instead of constant steering towards direct political involvement, particularly of the strong pressure type.

4. Institutions in state systems, more and more, should occupy themselves with the broad principles of seeking support for learning rather than jealous preoccupations with "dividing the pie." With the integrity of the institution behind it and legitimate cases being presented, institutions more and more have to accept the legitimacy of responsible authority at the local, statewide, and legislative levels. This will be particularly true if we want to stem the tide of burdensome federal impacts and open the way for block or institutional grants.

5. American political theory and public administration must incorporate new insight towards higher education. Colleges and universities preoccupied with regulation-coping and burdensome paper work will not advance learning, culture, or morals. Society without such advancement falls heir to Walt Whitman's warning: there is one evil, namely ignorance. Such evil must be avoided at any cost. This may necessitate new insight into many governmental operations as well as those that affect higher education. Since the report of the President's Committee on Administrative Management (PCAM) in 1937, and before that the state reorganization movement which Governor Lowden of Illinois kicked off in 1917, America has been operating overly much on the assumption that government, whether federal or state, can and should be "managed" by an elected, central chief executive-manager. The way to help him do that was to do as Diocletian and Constantine did, namely build staff around him. If the Nixon Administration proves anything, it proves the dangers of the imperial Roman approach. It is time to recognize in the national life of the United States, where higher education should be an essential "free island" in the diminishing sea of pluralism ("*e pluribus unum*"), that government should respond to certain pluralistic values and sociogeographic facts. A few universities and state systems, for example, still maintain ETV with some differences, despite PBS (not mentioning the commercial networks), in this day of TV-dominated culture. From time to time there will be upheavals like the Civil War, the Civil Rights Movement, and other circumstances where national reform must affect untoward local practices. But in the long run the reality of groups, and their life, including universities, has to be sustained for a rich national life.

6. A president of the United States could lead the way in reviving something like the Miller Bill for Higher Education (H.R. 35). In attempting to reorganize the federal government, the president might also cope with the fact that everything can't be managed out of the White House. Cabinet officers, independent agencies, governmental corporations, states, localities, churches, associations, private life, universities, and colleges all require some flexibility

and discretion to do the work of a centralizing society. Even Zdhanov's funeral oration for Stalin paid lip service to this principle—at least for the U.S.S.R.'s racial groups. Perhaps a president of the United States should devote his major administrative energies to (1) economic policy and finance (the Treasury Department and its ilk), (2) to the fateful nature of foreign affairs (e.g., the Department of State), and (3) to national defense (DOD). The broad range of government operations beyond, primarily, could be left to more continuing independent, non-hierarchical, and local authorities. Presidential concentration on the broad lines of economic policy, the fateful details of foreign affairs and defense, should establish sufficient and powerful-enough guidelines to offset major irritating conflicts. Washington and Hamilton were able, without computers, to keep the country moving. To reorganize so that everybody and everything reports through clean hierarchical channels to the president as administrator-in-chief cannot serve us, even with computers. Furthermore it would be dangerous ("An Appraisal"). The federal impact on institutions and state systems of higher education could then be aggravated to the end that freedom and learning could cease to light the way to the future.

As with public administration, before it is too late, state systems and SHEEO should rally to serve essential institutional autonomy and press, on behalf of all, to redress the recent tendencies of the "federal impact." What is essential institutional autonomy must be left for another time! But lump-sum appropriations and grants could help.

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EXTERNAL CONTROL AND INSTITUTIONAL GOVERNANCE

Allan W. Ostar

The topic of this paper, "External Control and Institutional Governance," will not be unfamiliar to most readers. There are many examples of external pressure brought to bear upon campuses in some form or another. I do not consider myself an expert on the subject, either on the nature of external pressures or on the resolution of the problems they create; but I do have some observations to make, a few of which I hope will be of interest.

Although this monograph is concerned with the impact of federal policies in institutions of higher education, I do not think we can discuss external controls without mentioning those which exist at the state level. They can be just as dysfunctional to institutional governance as federal controls, and, in many instances, state controls are the result of federal policy.

To begin, I would like briefly to make a distinction between coordination and control. Coordination is a necessary activity for higher education, particularly in the present time of scarce resources. It is necessary to prevent duplication of programs and to assure development of consortia and cooperative programs—when they can be beneficial. It is necessary to assure that educational facilities are distributed to match population needs. It is necessary to assure that financial resources are equitably divided.

Coordination is policy-setting, presumably based upon a consensus of rationality and equitability. Unfortunately, as with that other well-known road, the road to control is paved with well-intended coordination. All too frequently now, we see the line being crossed, and policy setting begins to dictate decision making in the operation of a campus in such areas as personnel, budget formulation, program development, and purchasing. It is important to remember that external controls, whatever their source, far too often hamper the efficiency of colleges and universities.

This kind of control, centralized decision making, is most evident at the state level. Basically it means that the authority to make decisions is taken from the president and the lay board of trustees and vested in a coordinating board, council, or education office in the state capitol.

Let me give you an extreme example of how this operates. A state college president from Pennsylvania, complaining of the red tape in his state, remarked that in order to purchase a $5 wastebasket for his office it was necessary to fill out a form which went to his purchasing department, then to an office in Harrisburg for approval, then to another office, and then back through the process. He computed that the man hours involved in passing and approving the forms put the value of the wastebasket at $50.

It may be amusing to talk about a $50 wastebasket. It is not amusing to apply this same control to the vital purposes and missions of state colleges and universities. State colleges and universities have continued to be a vital segment in our society through more than a century of tremendous social and economic change because of their responsiveness. For the most part they have gone from normal schools to teachers colleges to comprehensive universities, all in response to the changing needs of the communities, regions, and states in which they are located.

The greatest danger of external control is that it erodes institutional governance and institutional decision making to the point where this responsiveness is stifled. New programs can no longer be developed unless they are cleared with a central office. And the central office, despite its good intentions, is not a member of the relationship between the community and the college. It is not an adequate judge of the conditions which led to the program proposal. A central office is located in the state capitol: it is not in the community. Long-distance decisions can easily upset the community ecology.

A balance of authority also is destroyed when personnel decisions are made in the state capitol. This is becoming more evident as collective bargaining becomes a phenomenon of the public state college. In some cases in negotiations, the management side of the table is not filled by the president or the president's representative; it is filled by the governor's representative. It does not take too long for the faculty to presume that if these kinds of decisions rest with an external body, why bother to go through the president's office at all. And the process of circumventing the president begins.

Importantly, in the examples I have just given, authority also slips from the lay board. The lay board serves as a buffer. It represents the people of the state; but, at the same time, it speaks for the college or university and can thus mediate between the two. When its authority is eroded, the college becomes more and more vulnerable to direct state control. This politicization of the college can damage both its teaching and research functions as well as its community service.

I stated earlier that the federal government provided the impetus for some of the external control becoming evident through state education offices, superboards, or statewide councils. During the Nixon administration, federal institutional aid to higher education diminished at approximately the same time that the revenue sharing program was established. The Higher Education Amendments of 1972 also contained a provision for what were to become known as the 1202 Commissions. These commissions were conceived as the focal point for planning for postsecondary education in the states for the purposes of obtaining federal funds. The commissions have had a spotty history. First the section was not going to be enforced by the Department of Health, Education, and Welfare, and then it was. Some forty-odd states hurriedly put together commissions. Then it was going to be funded, but the appropriation for the commissions was not forthcoming. Despite the on-again, off-again prospects, the commissions, combined with the state's new funding authority under revenue sharing,

reinforced the tendency of the states to exert greater decision-making control over higher education through centralization.

The federal government continues to reinforce such muscle-flexing on the part of state governments. For example, the Office of Education is currently planning state councils for career education that will be responsible for statewide planning of career education programs for the distribution of federal funds.

The Nixon and Ford administrations made repeated attempts to eliminate the institutionally-based student aid programs (supplementary educational opportunity grants and work-study) while funding the state scholarship incentive grant program as well as the basic educational opportunity grant, administered federally. The Thompson-Eshleman amendment of the Omnibus Education Act, signed late in 1976, permits state processing of BEOG grants, and the Office of Education has announced that it may begin the program in certain states next fall.

The American Association of State Colleges and Universities opposed this amendment for several reasons. To begin with, there have been a great many problems with the administration and delivery of the BEOG system so far; and to change the system now would further complicate it. Also, if some of the largest states were pulled out from the American College Testing Program, which now administers these forms, the per-unit cost of processing the BEOG would rise, making less money available for students unless additional monies are appropriated. Finally, some presidents fear that this policy plays into the hands of a state authority eager to augment its administrative control over institutions.

I am not against the current thinking that many federal programs can be administered more effectively outside Washington, D.C.—the dispersal of federalism, I guess you could call it. But much more thought must be given to how this affects institutional governance, which is to say institutional efficiency. Shifting a funding program to state control does not automatically insure that it will result in fewer controls or regulations, less red tape, or more efficient use of the resources.

I am not going to go into great detail as to how centralized decision making can adversely affect institutional efficiency. This would be like giving a talk on coaching college basketball with John Wooden sitting in the front row. Fred Harcleroad, as I am sure most of you know, has done considerable study of statewide governance systems and their effects on institutional autonomy. Several years ago he formulated his own law on the subject, which is "Local autonomy and effectiveness are inversely proportional to the size of the central office staff." I would be willing to bet that he still adheres to that law.

Several years ago Harcleroad conducted a study of state centralization and institutional efficiency for our association. For those of you who have not seen a copy, I recommend that you take a look at it. For the many of you who have read it, I will not recap it here, but I will mention some of the frightening

examples uncovered. For example, California institutions must buy most of their furniture from the Correctional Industries Division of the Department of Corrections. At one institution, the furniture for a new library was delayed for a considerable amount of time when a particularly efficient cabinet maker was paroled.

In Massachusetts, an institution had an opportunity to join other institutions in the area in a fuel oil consortium, but could not because it had to buy through the state contract which cost more.

The threat to efficiency and autonomy is not limited to higher education boards or councils; in fact, it is coming more and more from the executive and legislative branches of the state government. For example, the Florida legislature passed, and the governor vetoed, a bill which would have required program approval from the legislature on all new programs in the Florida universities. The Wisconsin legislature is attempting to give the state's audit bureau the authority to audit the quality of all programs and teaching in the University of Wisconsin system. The Board of Regents opposed this, and a substitute measure was proposed which deals with the mechanism by which the programs are evaluated. At this point I do not think the matter is fully resolved.

Program auditing is the subject of some controversy as a budgetary policy. As a tool it has some drawbacks. It places upon legislative and audit bureau staffs a responsibility that they do not have the training to assume; that is, judging educational quality. Quality is a virtue which is difficult to measure, at least by presently known standards. Too often what happens is that programs are broken down into easily quantifiable numbers in order to be counted and measured. We end up with student-faculty ratios and enrollments per program measured against the cost of facilities and faculty salaries. As one faculty member put it: Are we putting ourselves into a position where in the future students will be encouraged to major in only low-cost programs?

One must also question the effectiveness of program auditing in meeting its own goals. One of the state college presidents in Georgia recently reported that a state auditing team visited his campus, labored long hours, at a not inconsequential cost to the state, with little to show for the effort.

At the federal level, external controls originate from several sources with varying consequences. One of the more highly visible impacts on the campus has been financial.

Over the past several years, while the amount of federal institutional aid has decreased, the costs to the colleges of complying with federal regulations have increased. The American Council on Education estimates that between two and five percent of college budgets are being spent for the clerical costs of meeting federal reporting requirements. This is about two billion dollars annually. That is a tremendous amount of money to spend for something that is unrelated to academic missions, particularly since institutions are not usually compensated for the expense.

As one example of what it means to an institution, the Maine Maritime Academy found that government regulations and new statutes governing equal opportunity, affirmative action, unemployment compensation, occupational safety, and the environment added $55,000 to its annual expenses. The enrollment at the Academy is approximately 600 students, which means that the cost of complying with government regulations is almost $100 per student per year. At a time when public colleges and universities are hard pressed financially, that $100 would be a better use of taxpayer money if it were spent on the student to upgrade educational programs or hold the line on tuition rather than being spent on federal paper work.

The programs I just enumerated are federally mandated social programs, all with admirable goals, which are difficult to criticize publicly without being cast as a villain. No campus administrator supports unsafe working conditions, discrimination in hiring, or favoritism in student development based on sex. A less than enthusiastic endorsement of these federal regulations is not antipathy toward social reform. A major complaint is that the regulations are poorly formulated, uncoordinated, and often duplicative without assuring conformance to the intent of the regulation. The result is that the cost of compliance is unnecessarily high.

This problem has been brought to the attention of the Secretary of Health, Education, and Welfare by the Secretary's work group for consolidation and simplification of federal reporting requirements for institutions of higher education.

This group has stated the following.

The changes in the relationship between the federal government and other institutions is not limited to higher education. The cumulative effect, both individually and institutionally, is seen by society as unwarranted intrusion and undue burden imposed either by Congress or by administrative agencies. There are, of course, differences of opinion with respect to the policies and priorities established by Congress. But the arena of major concern for institutions is administrative – the seemingly untrammeled and gratuitous interpretations and the complex and costly implementation processes and procedures used in the application of legislatively established policies to institutions of higher education.

Departments and agencies have a special responsibility in the implementation of statutes by virtue of the administrative role in the writing of regulations. Regulations are essential in bridging the respective legislative and executive responsibilities for establishing policy and for carrying out the intent of that policy. Unfortunately, those who write the administrative regulations have, over the years, assumed a defensive posture – when in doubt about legislative intent, the regulations writers include every conceivable topic, definition, area of applicability, reporting and record-keeping requirement, time limit and penalty. Strong executive action is needed to reverse this abrogation of power by the bureaucracy.

One of the inroads to control by the bureaucracy has been federal student aid. The shift toward funding through student aid, as opposed to institutional aid, was supported by some people on the grounds that it would avoid federal control. This has proved to be a fallacy. New regulations for the guaranteed student loan program require institutions to keep a file on the career outcomes of alumni in order to show prospective students the employment and salary records of its graduates in certain fields.

Hillsdale College, a private institution in Michigan, informed the Department of Health, Education, and Welfare that it did not have to comply with Title IX regulations because it did not receive any federal aid. Hillsdale College was informed that indeed it had to comply with the regulations because some of its students were receiving G.I. benefits.

According to a section in the recently passed G.I. Bill, institutions are required to count the number of federally aided students in each course to determine whether any course is composed of more than 85 percent of federally aided students. If so, veterans would not be able to use G.I. benefits toenroll in such courses. Because of the complaints from many colleges that they simply do not have the staff to provide such enrollment counts, plus a law suit lodged by a business school in South Dakota, the Veterans Administration has backed off somewhat from this requirement, but not totally. Congress also is considering amending this section. At present, the law is still on the books as a very good example of the regulations which accompany student aid.

And a good example from the past: during the campus demonstrations of the late 60's and early 70's, former Congresswoman Edith Green sponsored legislation to cut off federal aid to disruptive students. Now, what is a disruptive student? Who makes that definition? The federal government? That is direct interference in the governance and authority of the campus.

Now, what, if any, prospects does higher education have for lessening external control? In January, an interagency task force, formed last fall to study ways to ease the reporting burdens on colleges and universities, reported nineteen recommendations. Four of the recommendations were immediately forwarded by Secretary David Mathews to then President Ford for action by the Office of Management and Budget. The four recommendations are not only "do-able" as Mathews described, but are matters of common sense. They follow.

- Policies assuring early consultation with colleges prior to the writing of regulations or designing reporting forms.

- Developing data acquisition plans affecting colleges which would be subject to review by OMB and the higher education community.

- Directing the Office of Management and Budget to designate "cognizant agencies" responsible for the collection of certain types of data to reduce overlapping requests.

- Directing the Office of Management and Budget to develop a comprehensive subject index to federal data collection projects which would make agencies aware of available data and allow it to be more readily shared.

If followed, those directives certainly would reduce some of the burden of federal control. There is evidence that the new administration shares the concern. When he nominated Joseph Califano as Secretary of Health, Education, and Welfare, President Carter said, "We now have about ten times more regulations being promulgated by the Department of Health, Education, and Welfare than all of the laws passed by Congress combined. And one of the things which I have already discussed with Joe Califano is the opportunity to reduce the multitude of regulations, guidelines, directives, red tape, and paper work."

While, as President Carter implies, HEW may proliferate what Congress orders, Congress must certainly be considered an accessory before the fact. Congress passes the legislation which requires operative regulations, and the character of the law (how vague, how restrictive, how well-written) certainly dictates the character and the amount of the regulation. In fact, it has been suggested that one of the reforms for the new Congress should be having a member of the committee staff fill out the intended reporting form which would accompany a proposed bill. This should cut down on the number of forms.

An even more far-reaching impact on reducing federal control would occur if Congress were to re-examine its relationship with the constituencies it is to serve through its official capacities. This point was made quite well by writer Walter Pincus in an editorial in the January 9 *Washington Post*. In a lengthy commentary on Congressional reforms, Pincus observed that the first order of business must be a reordering of roles. Of the three roles enumerated by Pincus, the first, and most important, is constituency service. Presumably this is problem-solving for the various constituencies, making sure that present laws are administered for the benefit of the people they are to serve. The last of the three roles is the actual creation of new legislation. We are not suffering from a scarcity of enacted laws. The construction of legislation, the quality of the legislation are matters which may require more attention.

As Samuel Halperin, director of the Institute for Educational Leadership, has observed, "Congressmen see themselves as having been elected to legislate. . . . Ten years ago, money was Washington's antidote for problems. Now, the new fiscal realities . . . mean that Congress provides fewer dollars. Still determined to legislate against problems, Congress uses sticks instead of carrots."

The most cost-effective education aids the federal government has sponsored are the various acts which provide funds for teaching, research, and extension programs in land-grant colleges. They also are the programs with the fewest strings. Few bureaucrats are needed to administer the programs, and the land-grant funds have maximum utilization. The gains which have been made in the production of food and fiber as well as the development of our land-grant universities as national resources as a result of this institutional aid are tremendous.

I think it is in the utmost interest of the federal government to apply this same concept of institutional aid to other research programs in the health fields, in energy, in environmental sciences, and in urban and transportation areas. The results obtained from the money will be great, and the academic and administrative integrity of the institution will be preserved, such as in the case with the British Commonwealth universities under the university grants system.

In order to secure this commitment from the government as well as various commitments expected from the state governments, colleges and universities must be able to demonstrate accountability. They must engage in sound management practices in planning and implementing programs, budgeting, productivity, goal-setting, and achievement, as well as in utilization of resources.

This is particularly true at the state level where sound management practices are a preventive measure. Without them, it is quite possible that the stray piece of legislation will turn into a veritable stampede of bills designed to control higher education through line-item budgeting, through legislative auditing, through program determination, and through work load strictures.

One of the activities of AASCU's Resource Center for Planned Change has been assisting institutions in the identification of futures. This is not a theoretical exercise. By examining the future, developing alternative courses of action to deal with future possibilities, and identifying goals and objectives consistent with the future and the mission of the institution, sound planning, programming, and budgeting can be accomplished. This is one kind of activity which impresses legislators and state officials that college administrators really know what they are doing and are going to do with the state's money.

As important as sound management practice is the process of communicating this virtue to the people who count. Presidents, usually because they are spread too thinly through the day-to-day operations of the campus, do not maintain adequate communication with the various constituencies of the universities. Presidents are indeed the "outside men" or "outside women." It is their responsibility to keep all parties informed as to what the institution is doing, how it is doing it, and what this means to the state.

If presidents do not do this, there are other parties only too willing to interpret the institution's operations. For example, at a meeting last fall of the National Association of State Budget Officers, its education committee released a survey on higher education it had conducted. Among other things, the survey gave information on state funds for higher education as a percent of the total state budget, on faculty salaries among institutions, on the number of appropriated faculty positions, and on credit hours. Upon receiving the survey, one of the state budget officers said, "Notice that I am holding this like a club, and that is how I am going to use it."

Communication also extends to the federal level. As a higher education association, we represent our members' views in Washington, but only to a certain point. There are certain matters in which the voices and opinions of

individual presidents carry great weight. This is particularly true with Congress. Last year, after Congress had overridden the President's veto of the HEW appropriations, a Congressional staff member told me that it was lucky that higher education appropriations were contained in the bill with elementary and secondary funds. The reason? Congressional offices heard from a great many representatives in the elementary-secondary area, but few college or university presidents wrote or called urging the override.

Presidents must stop reacting to legislation and begin communicating their concerns and opinions before Congressional action.

These last points, while they will not eliminate all the problems of external controls on the campus, certainly should be a step toward restoring some of the efficiency and freedom which colleges have lost in the past several years.

The trend must be reversed. If external controls from the state and federal level continue to influence what programs must be offered on what campus, what promotion procedures must be enforced, how many resources must be consumed in reporting, and how student aid must be distributed, the erosion of the authority of the lay board and the president will continue. Without the political buffer which the authority of the lay board gives, and without the efficiency which the authority of the president provides, governance of our institutions will be almost impossible.

FEDERAL REGULATIONS AND INSTITUTIONAL AUTONOMY

Louis W. Bender

My remarks in this paper will be based upon materials I developed into a Research Report for the ERIC Clearinghouse on Higher Education. The title of that monograph is "Federal Regulation and Higher Education," and it attempts to give a brief overview of the emergence of the problems of federal regulations, the historical chronology of the evolution of the federal presence, and then an analysis of the impact federal regulations have on contemporary colleges and universities (Bender, 1977).

I might observe at this time that the audience for that monograph was limited to collegiate, degree-granting colleges and universities and thus the array of other traditional and nontraditional postsecondary training and educational institutions is not encompassed. I shall use the same narrow focus today since the question of institutional autonomy has typically come from the collegiate level.

When I initially undertook the study, I was interested in knowing the answers to such questions as whether federal regulations have altered traditional governance patterns; whether they have clearly infringed upon institutional autonomy; what the costs to comply with regulations are to institutions; what program modifications or changes have been incurred because of federal regulations; and what the implications are for the future of higher education administration. A search of the literature, including materials cataloged by the ERIC Clearinghouse for Higher Education, revealed a dirth of published materials on the subject. For that reason, I attempted to solicit reports and other fugitive literature which might aid in the research. A personal letter outlining the questions I've described was mailed to 76 presidents of colleges and universities throughout the nation and to a dozen national association executive directors. The letter was mailed August 30, 1976, and no follow-up mailing was conducted. A surprisingly high response rate resulted with replies from all but six of the institutions and all but two of the associations. Even more startling, however, was the fact nearly all respondents reported no internal studies had been conducted on the cost or impact of federal regulation. Yet there was unanimity among all of the respondents in encouraging the study calling federal regulation "one of the most urgent and critical problems confronting higher education today." Where institutions did submit internal papers and reports, little documentation or factual data related to costs, program changes, or governance modifications was provided since most documents were position papers merely presenting opinions of their authors. It became clear that the higher education community has much homework to do before it can realistically storm the halls of Congress with rational arguments and documentation of the true nature and scope of the impact of federal regulation on higher education.

Several limited studies were carried out during the past year and deserve to be recognized for the contribution they have made. If nothing else, they are raising

the awareness level of higher education leaders to the broad spectrum of federal involvement and some unanticipated consequences which have befallen the institutions. Each is discussed later.

Before I proceed further, however, I would like to set the stage in order that we are all viewing the issues from the same perspective. Too often in addressing the dimensions of a problem as complex as the relationship between governmental agencies and educational institutions, the negative becomes so accentuated that we are in danger of forgetting the positive benefits and aspects involved. There are many colleges and universities, both public and private, that owe their greatness, in large measure, to the federal role. Harold L. Enarson, president of Ohio State University, in testimony before his Ohio Congressional delegation last June, credited federal programs *in toto* or in part for: (1) $24.5 million in federal funds for their medical center; (2) a comprehensive cancer research and demonstration center; (3) a veterans' clinic serving 70,000 veterans in 32 counties; (4) a national center for vocational education; (5) a modern veterinary teaching hospital; (6) a Slavic center offering the only major program of its kind in Ohio; and (7) over 10,000 students whose tuitions and fees are paid through federal scholarships and loans (Enarson, 1968). The Metropolitan Community Colleges of Kansas City, Missouri, reported that federal student financial aid and institutional aid for fiscal year 1976 had increased 319% over the amount allocated in fiscal year 1973. And while that institution did identify the need for additional administrative personnel and over $200,000 more to its operating budget to accommodate federal regulations and reporting, the benefits to the institution from the federal funds were described as "indispensable." Estimates of $15 billion in federal funds for higher education in fiscal year 1976 is clear testimony to the essential role of the federal presence to the fiscal vitality of higher education today.

I. Why Regulations?

And now let me attempt to create a mental image of the purpose and nature of regulations. Most people, when hearing the term, think of red tape and paper work. Regulations seem to be the folly of bureaucrats who sit in some obscure office justifying their jobs by thinking up new information requirements to impose more complicated versions of reporting forms and complicated technical jargon which generates complex and confusing demands rather than simple, precise data elements. Most of us envision this when we hear Congress announcing reforms to the income tax law in response to a clamor for less complex laws and simpler reporting forms only to learn the Internal Revenue Service has produced regulations and reporting format even more complex and tedious than before. It has been reported that a larger proportion of taxpayers this year will need professional advice and assistance than in any previous year because of the complex returns.

But I would propose that we look at a simplistic definition of regulations first in order to address our topic. Regulations are a level and form of law which are as indispensable as the provisions of the Constitution or the statutes of our legislative bodies if our society is to function successfully. Regulations carry the authority of law at a level somewhat below statutory law but above the

authority of policies enacted by boards of trustees whether for the college or university. Regulations are the mortar binding the goals or objectives of law to those affected. They provide authoritative rules and details which provide a mechanism for order and uniformity. A simple analogy might help. If we were to decide as a body of the whole or through elected representatives that we would carry out a game or contest later this afternoon, we would soon find that purpose could not be carried out unless there were rules under which all players would be expected to operate. The uniform expectation of the players would enable us to carry out the game. Without benefit of those rules, the game would soon deteriorate into confused disagreements. On the other hand, if we were to add rules as disagreements occurred, we would soon find that the burden of regulations would make the game so complex that we would soon discover time devoted to the rules and their interpretation would encroach on time allowed to play the game!

Think of the energy crisis and the goal of conserving gasoline which resulted in the 55 miles per hour (MPH) speed limit. All are expected to conform to that rule, even those who incur greater hardship than others. This is another dimension of regulations we need to understand. Since regulations attempt to deal equitably by requiring uniform adherence, unequal consequences result. The 55 MPH speed limit may not be a burden to the leisure driver who is sightseeing or even the tourist who is more frustrated than hurt by the requirement. Bus drivers, on the other hand, are under a tight time schedule and must make up for unanticipated delays; truck drivers frequently have their pay scale based on the turnaround time delivery. For these classes, uniform rules can create true hardships.

Federal regulations have a legitimate and necessary place in the legal structure of our country. Yet, they have grown so burdensome and have sometimes exceeded the original intent and purpose of the law to such an extent that one of the issues of the presidential campaign was reorganization of federal government and streamlining of its regulatory apparatus and existing regulations.

In 1954 alone there were approximately 25,000 federal regulations issued requiring 5,146 different federal reporting forms. Over 74,000 federal employees were required to handle the paperwork at the federal level alone. Former Secretary of the Treasury, William E. Simon, before leaving office informed the *U.S. News & World Report* that federal regulations are a major reason this country cannot come to grips with the energy crisis. Simon stated the United States needs 10½ to 11 years to build an atomic power plant compared with only 4 to 4½ years needed in Europe or Japan because of the incredible plethora of agencies and regulations involved in the United States (Simon). More than $3 billion a year are expended merely to maintain the federal regulatory agencies; and all of this is paid by the taxpayers. It is no surprise, then, that the public and national leaders are speaking out in strong opposition.

Education as all other enterprise has been swept up within the regulatory grasp. And higher education, as well as elementary and secondary education, has come to feel the pressures of federal regulation in the day-to-day operations of

the institution. The rapidity of that development can be seen in contrasting two reports at Harvard University within 13 years. In 1961, following a self-study concerning the relationship of federal government with Harvard, a conclusion was reported that, "The federal government has clearly not interferred in the direction of Harvard's research projects . . . the image of a coercive government dictating what shall or shall not be done in university laboratories and libraries simply does not fit Harvard's experience with Washington . . . from the point of view of the universities, it may be better to live with the difficulties of the present disorganized system than to increase the risk of political interference with university independence by putting all our eggs in one basket . . ." (Cheever, p. 135).

In stark contrast 13 years later, President Derek C. Bok dedicated his entire 1974-75 Annual Report to the Board of Overseers to the relationship with federal government calling it "one of Harvard's greatest problems in the next generation . . . within the last eight years . . . the government has begun to exert its influence in new ways . . ." (Bok, p. 1).

The increase in the number of regulations descending upon educational institutions can be seen in the fact that the United States Office of Education (USOE) published 32 documents in the *Federal Register* in 1972. In 1976, USOE alone published 270 documents in the same government publication. If the rate of increase were to continue, USOE would be generating one document per institution within five years (Cheit, p. 32).

Not only have the number of documents increased but the voluminous sets of regulations accompanying different laws is mind boggling. A law enacted by Congress covering three or four pages can result in thousands of pages of regulations. "Even a $5,000 federal grant has attached to it regulations covering 100 or more pages of bureaucratic fine print" *(U.S. News & World Report*, July 5, 1976).

The Commission on Financing Higher Education in 1952 predicted dependence on federal financing would bring federal control which ultimately would produce compliance, uniformity, and mediocrity. Some higher education leaders believe the reality of that prediction is clear and that the scope and direction of federal influence now threatens the independence and autonomy which historically characterized American higher education. In an address before the Association Governing Boards of Universities and Colleges in September, 1976, the president of Brigham Young University proclaimed that federal control had reached such a point where education's relationship to the federal level "can now be characterized by such discouraging metaphors as dependent colony, a regulated industry, or a business whose potential peril has brought it to the brink of receivership managed by an absentee creditor in Washington" (Oaks, p. 1).

II. Evolution of the Federal Presence

Higher education preceded our present system of government for more than a century! Initially, colleges were chartered by the Crown and subsequently during the 17th and 18th centuries, individual colonies granted charters for the

establishment of colleges. During those early days of the Republic, most institutions were privately sponsored and the sectarian nature of many established a consciousness rooted in the separation of church and state and as reflected in the First and Tenth Amendments of the Constitution. When the federal government did become involved with higher education, it was typically focused primarily upon state government. The earliest federal land grants for higher education were among provisions of the Northwest Territory Ordinance of 1787 when Congress sought to get rid of public lands and also disperse the population clustered along the eastern seaboard. There were few, if any, strings attached to the grants and thus a few of the older private institutions such as Miami University of Ohio and Vincennes University of Indiana directly benefited from the proceeds of the sale of such grants of land. Subsequently, however, Congress specified that institutions endowed with federal funds must be state controlled and many of our state universities were founded in order to take advantage of those early federal grants. Parenthetically, it might be observed that the federal government through this means did foster the beginnings of public higher education nationally.

The Morrill Act of 1862, almost a century later, and the Second Morrill Act of 1890 are noted for the landmark impact upon higher education through creation of the land-grant colleges. Again, however, Congress did not set out directly to benefit higher education but rather was responding to the needs of an agrarian society moving toward an industrial emphasis. But Congress used the land-grant provisions of the Morrill Act to "over-rule state provincial concern" and to entice action which would serve the "broader national interests" (Blocker, et al., p. 136). The *in loco parentis* principles operating on the campus contributed to the buffer between the college and any political involvement, particularly at private institutions.

It might be observed, however, that the Second Morrill Act of 1890 did obligate the public land-grant colleges to offer instruction in "agriculture, mechanical arts, the English language, and the various branches of mathematical, physical, natural and economic science, with special reference to their application in the industries of life" (Rivlin, p. 20). The institutional autonomy purists thus can point to directional intervention on the part of the federal government at that early date. Even reporting requirements began with the Morrill Act since the land-grant college presidents were obligated to submit annual reports to the Secretary of the Interior and the Secretary of the Treasury. The Second Morrill Act specified that the reports encompass students, faculty, library, receipts and expenditures, and all "other such industrial and economic statistics as may be regarded as essential." Many of the early land-grant college presidents struggled with the regulatory provisions promulgated to carry out those early legislative provisions (Rainsford, p. 111).

A most important Constitutional precedent was established with those early Acts. It was the use of the "spending power" under Article I which authorized the federal government "... to lay and collect Taxes, Duties, Imports, and Excises, to pay the Debts, and provide for the common Defense and general welfare of the United States." By making the lands and subsequently direct

appropriations available for land-grant colleges, the federal government was employing a "carrot" incentive strategy which had been the primary approach until 1972. The states, as well as the institutions, could be free from federal intervention if the federal funds were refused.

First clear evidence of lobbying from educators can be seen in three subsequent federal Acts which also employed the incentive-type approach of federal funding. Since the funds for the land-grant colleges were granted to the states, it is not surprising that those institutions, almost from inception, lobbied for additional federal support and such efforts were rewarded with passage of the Hatch Act (1887) directed toward agriculture research and the Smith-Lever Act directed toward the university extension. The Smith-Hughes Act of 1917 influenced the development of vocational education throughout the nation and also can be credited to the education lobby, in this case vocational educators.

Beginning with World War I, we find the federal government turning directly to universities for research and related services primarily to address the crises confronting the nation. Even during the great Depression some Works Progress Administration (WPA) funds were used to support individual research projects by faculty members in public colleges and universities; and by the end of World War II, approximately $15 million for research in colleges and universities was administered by the Department of Agriculture alone. Ten years later over $150 million was being expended for contract research by more than a dozen federal agencies, providing testimony to the origin of one of the present problems of the federal interface of a maze of different agencies and offices with which institutions must deal.

The Servicemen's Readjustment Act of 1944, popularly known as the G.I. Bill of Rights, was the precursor of permanent federal support for and involvement in higher education. It too evidences a conscious effort on the part of federal government to avoid intrusion into institutional self-determination. Funds flowed between the Veterans Administration and the veteran. Higher education was again being used by government to address a national problem, however. The educational benefits were, to a great extent, a means to absorb millions of returning veterans in an economy which had been skewed away from a domestic-consumer market to a munitions-defense market.

When writing legislation for Korean War veterans in 1952, Congress again sought to honor the autonomy of colleges and universities by using accreditation by existing accrediting agencies as the criteria by which federal support for veterans' attendance at institutions would be allowed. This was in response to abuses associated with the W.W. II G.I. Bill and was accomplished by requiring the U.S. Commissioner of Education to publish a list of recognized accrediting associations; and then, in turn, institutions listed as accredited by such associations would be eligible to serve recipients of the federal funds. Such strategy sought to satisfy the need for determining quality programs while avoiding direct federal evaluation of educational institutions.

Colleges and universities lobbied for more federal funds, arguing that the federal government was exploiting the institutions by subsidizing the veteran, yet not providing funds for needed capital expansion. Many private institutions warned that their financial structure could be undermined by over-extending themselves to build facilities to serve the veterans. Although Congress defeated capital construction bills for higher education in 1956 and 1957, Sputnik triggered passage of the National Defense Education Act of 1958. The "states rights" view of some in Congress is illustrated by the argument of Senator Goldwater who opposed that Act: "If adopted, the legislation will mark the inception of aid, supervision and ultimately control of education in this country by federal authority" (Honey & Hartle, 1975, p. 20). Only a few Titles of the NDEA encompassed higher education, such as Title II providing for student loan programs and Title IV providing graduate fellowship for those preparing for college teaching.

The Higher Education Facilities Act of 1963 might be identified as the beginning of federal encroachment as higher education became viewed as a national resource. That Act required each state to prepare plans for using the facilities' funds and to include private as well as public institutions in such plans. By adding funds to the state government to support personnel to carry out the planning and administering duties, Congress provided impetus to state planning and coordination of higher education. The Higher Education Act of 1965 went beyond the Facilities Act enforcing the directional intervention posture of federal government toward the states. Title I authorized matching funds to states for community services programs but specified that emphasis be directed toward urban problems including housing, poverty, employment, health, transportation, and related issues. The scope and depth of federal involvement at the institutional level can be seen in the other Titles: Title II, College Library Assistance; Title III, Strengthening the Developing Institutions; Title IV, Student Assistance; Title V, Teacher Program; Title VI, Improving Undergraduate Courses; and Title VII, Amending and Extending the Facilities Act of 1963. Millard observed: "It is no accident that the major period of acceleration in the development of state higher education agencies and boards coincided with the most rapid period of expansion of higher education in the history of this country–1960-1970" (Millard, p. 10).

The Higher Education Amendments of 1972 may well earn the reputation of being landmark legislation and at the same time, the signal of a national threat to institutional autonomy. And let me observe that my definition of institutional autonomy is the academic and economic integrity of the institution. I am not supporting the extremist view that colleges and universities, merely because of tradition and mystique, should have the federal government serve as a patron and ask for no accountability.

It is also critical that we inject at this point the fact that a variety of other precursors were at work during the time periods we have discussed. The social unrest associated with demands for civil liberties and egalitarian principles was a reality of the 60's. Social legislation addressing the problems of poverty, urban blight, civil liberties, and social-economic mobility for a pluralistic society

created new external pressures upon Congress as well as on higher education. As the courts became more active, the range of litigated issues directly involving colleges and universities brought a maze of noneducational agencies into play with day-to-day operations of institutions. Courts entertained cases related to dormitory searches, recognition and status of student political groups, access to campus facilities for all public groups, challenges to admission decisions, confidentiality of administrative and policy meetings, as well as many others. Colleges and universities were being swept up by the growing range of litigation as our country moved toward a more legalistic society. And regulations are part of that legal structure. Not only were courts being used in issues against higher education but institutions turned to the courts to protect their own interests as well.

III. Regulation Problems

The Higher Education Amendments of 1972 have in the words of Dick Millard, "changed the ground rules, and whether intentionally or not, redefined the roles and responsibilities of institutions, states, and the government" (Millard, p. 34). First, the term "postsecondary education" instead of higher education is used throughout the legislation and it is clear that the universe of federal and state concern in the future will be all education beyond high school rather than in the narrower sense of collegiate, degree-granting institutions. By national policy, proprietary schools, vocational schools, and a variety of nontraditional education delivery systems will be recognized for planning, programming, budgeting, and evaluation purposes. Second, the Act clearly established student-centered funding emphasis rather than the institution-centered approach. And we're familiar with the 1202 Commission provision which resulted in the need for many states to change their planning and coordinating structure.

It would be a mistake to think only of federal programs directly intended for higher education when examining problems of regulations and their impact upon institutional autonomy. The "spending power" of Congress has resulted in a difficult choice (if one exists at all) for colleges and universities. Under that power, Congress can set the conditions for accepting the federal monies; and thus most of the regulatory intrusions come as a consequence of Congress applying different social legislation to colleges and universities because they are treated as any business or industrial organization. The discrimination and affirmative action regulations are rooted in the edict that any contractors or grantees receiving federal funds are obligated to carry out requirements of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963 as amended, and the Executive Orders 11246 and 11375 to name only a few. Title IX of the Education Amendments of 1972 is not the only discrimination law affecting colleges and universities. Let me outline four areas of concern and criticism of colleges and universities toward federal regulation.

Burdens of Regulation: One of the major burdens of regulation involves institutional costs. Many federal regulations are imposed upon institutions without any concomitant federal funds provided to support staff and facilities

needed to comply. Other programs do have an administrative-cost provision but frequently it is inadequate. Another category of costs are related actions required of institutions in the capital budget and also not reimbursed.

The American Council on Education Study found that from 1% to 4% of the operating budget of the sample of institutions included in that study are needed to pay for federally mandated social programs such as social security and other employment benefits and some of the discrimination and affirmative action programs. It observed that the increases in social security taxes imposed by Congress may inadvertently be undermining tax-exempt benefits of private higher education. It observed that within 10 years the share of federal budget resources from social security taxes increased from 19% to 31% and during the same time the personal income taxes share continued at roughly 45% but the share provided by corporate income taxes dropped from 22% to 15%. Whereas business can deduct many of the costs of the federally mandated social programs and/or pass them along to the consumer, colleges and universities must absorb costs either by increasing tuition or by extracting them from the educational program (Van Alsyne & Coldron, 1976).

The paper work costs required of colleges and universities have not been systematically studied and there have been few sophisticated cost studies carried out by colleges and universities. An exception is the University of Iowa which revealed it costs that university $20 per VA benefit recipient for which the federal government reimbursed the university slightly more than $3 per benefit recipient. *Change* magazine reported the price tag for affirmative action advertising is at least $6 million per year for colleges and universities but added "... few professional placements ever result from such national advertisement" ("Will Government ...?", p. 11). Saunders reports colleges and universities will spend over $3 billion in order to comply with standards of employee safety and health promulgated by the U.S. Occupational Safety and Health Administration (OSHA)(Saunders 1975, p. 91). Ohio State University spent $885,000 over two years in anticipation of OSHA requirements and then found an additional $9.1 million would be needed in the years ahead to bring their facilities into compliance (Enarson 1976, p. 5).

Duplication of effort is another burden of regulations imposed upon institutions. Different agencies insist upon their own information formats even though the same information may have been provided by an institution on a different federal form. Former Secretary of Health, Education, and Welfare, F. David Mathews, appointed a group of ten representatives from higher education to study the federal reporting requirements with a view of consolidating and simplifying them for higher education. The Secretary's Work Group observed that the burden of institutional reporting is "most onerous" when required information is asked for more than once. It occurs when the same agency repeats a request for information it already has, often through a different branch; when two agencies seek the same information independently; or when detailed requests follow earlier data from the same institutional data file. The HEW Work Group found that the Internal Revenue Service substituted its own form for previously acceptable information derived from the Higher Education General

Information Survey (HEGIS) Report. It was estimated that an institution must expend up to $100,000 to revise its accounting system and up to $50,000 per year to maintain the IRS information only for IRS ("Report of . . .", p. 31).

A third burden related to regulations concerns the time demands imposed upon institutions. The National Association of College and University Business Officers (NACUBO) also carried out a study on federal paper work and found institutions are not given enough lead time to prepare responses for data requests associated with student financial assistance programs administered by the Office of Education, the National Institute of Health, and the Justice Department. It also observed that regulations frequently are promulgated quite late in the year and changes in information requirements are made with very short notice.

Overlapping Jurisdictions: As federal social legislation programs have been enacted, different agencies have been designated by Congress for regulation writing and enforcement. Every institution almost needs a full-time attorney simply to know the appropriate enforcement agency and how to deal with it. The Equal Employment Opportunity Commission within the Department of Labor administers Title VII of the Civil Rights Act of 1964 but the Office of Civil Rights (OCR) is responsible for Title VI of the same Act. Section 503 of the law forbidding discrimination on the basis of mental or physical handicap is administered by the Employment Standards Administration (ESA) of the Department of Labor while Section 504 of the same law is administered by the OCR of HEW. Regulations issued for affirmative action programs mandated by Executive Order 11246 are promulgated by the Office of Federal Contract Compliance (OFCC) of the Department of Labor but the enforcement agency for higher education is OCR of HEW. Internal Revenue Service (IRS) also has responsibilities which overlap with all of these.

Directional Influences: A variety of problems resulting from federal regulation on the academic and economic direction of the institution have developed in the last few years. An immediate problem has been the shift in funding patterns emanating from Washington. Student-centered aid has undoubtedly benefited most private institutions more than categorical institution-centered programs of the past. On the other hand, state planning assumptions were abruptly dislocated by the shift in posture from the federal level.

President Derek Bok of Harvard University in his 1974-1975 President's Report described a number of ways in which federal regulations now intrude upon self-determination of the institution. He observed regulations necessarily must be reasonably uniform in nature, hence they have a leveling effect which fails to take due account of the special contribution particular institutions make in a diversified system (Bok, p. 2). He described the aborted federal effort to require medical schools to induce medical students toward general practice and in areas underserved by physicians as another example of federal intrusion into institution self-determination. Pressure still is felt from Washington agencies to modify medical school programs to achieve that goal.

Rights of privacy regulations also have forced directional influences upon institutions. The Buckley Amendment essentially required institutions to involve the students in developing and utilizing student files in a variety of ways. Should the institution have a confidentiality policy over statements provided as part of determining admissions, employment, or honors, the student or other applicant would need to waive his/her right to access of the confidential statements. The task of soliciting confidential letters of recommendation has already become complex because of the anticipated implications of federal regulation and the apprehensiveness on the part of those writing such letters to be candid and specific.

Regulation Writing: The fourth problem area stems from the approach and process of regulation writing. While legislation enacted by Congress usually is formulated in the comparatively open sunshine of Committee hearings, development of regulation is quite different. While opportunity for comment in theory is provided by publishing proposed new or modified regulation in the *Federal Register* for the purpose of providing 30 to 60 days for comment from the field, institutions have argued for consultation during the initial regulation draft stage. Many insist those who write regulations do not understand the nature of higher education and frequently are unsympathetic to the special conditions under which institutions operate. In a somewhat sarcastic statement portraying the different procedures and "mind set" of regulation development, Saunders observed, "Regulations are drafted in the dreary recesses of obscure downtown buildings by unknown officials whose names rarely can be found on their agency's organization chart (assuming an organization chart can be found)" (Saunders 1976, p. 92).

HEW Secretary Mathews, previously president of the University of Alabama and a critic of federal regulations and paper work, did encourage agencies under his jurisdiction to solicit input from institutions during the writing stage. His work group also included a recommendation calling for prior consultation before regulation drafting.

Congress has been critical of regulation writers going beyond the intent of Congress in their zeal to champion the cause being addressed by legislation. Officials sometimes are guilty of creating new laws. Congressman O'Hara in testimony before the House Subcommittee on Equal Opportunities was a critic of drafters for such a reason and also insisted agencies establish their own priority in determining which regulations take precedent over others. As a result, some provisions of law are represented as in limbo or as inoperable in the absence of regulation. In his 1974 testimony O'Hara declared: "It leads to the widespread view that the only real law in town is the regulation, and that until some GS-15 has explained the statute, there is no real law out there to concern anyone. Title IX is a good example . . . Many . . . have accepted . . . the incredible proposition that a law, enacted by the Congress and signed by the President in 1972, has not yet become effective, and will not until and unless a set of regulations is issued by the Executive Branch" (U.S. Congress-Hearing 1975, p. 4).

A third criticism of regulation writing is the emphasis upon input rather than output measures. Information requirements related to affirmative action and discrimination tend to be input and process-oriented. Institutions must maintain countless files of information to document efforts to attract and recruit minority group and women applicants and then record and store evidence that individuals have in fact been given serious consideration. A more appropriate posture, in the view of many, would be to focus upon output or performance measures. In this case, end-product reporting would mean institutions would be obligated to supply information demonstrating what is being accomplished in the areas of affirmative action and discrimination.

IV. Obstacles to Solution

There are a number of obstacles to any solution of the federal regulation dilemma. They need to be addressed, nevertheless.

Dependency: Colleges and universities have become dependent upon federal support. President Bok of Harvard confirmed this dependency for his institution. President McGill of Columbia University affirmed the same circumstances for his institution a few months ago in a paper delivered before a conference on government regulation and academic freedom. President Enarson, at Ohio State University, and President Magarth, at the University of Minnesota, both commented that federal support was indispensable at their state institutions. And a report from the Metropolitan Community Colleges of Kansas City, Missouri, observed than an additional $200,000 needed to administer federal student financial assistance was well invested because of the number of students able to attend that institution because of the federal program. And as long as institutions accept federal dollars, they can expect to come under the regulations imposed by the federal government.

Structure of Congress: The organization of Congress represents a major obstacle to any remedy of the problem as well. Congress carries out its work through committees which theoretically enable input from the body politic and at the same time provide a means for a limited number of legislators to deal with many significant problems in depth. There is no single coordinated avenue for all federal policies affecting higher education operation within Congress. The Committee on Education and Labor in the U.S. House had jurisdication over 114 federal programs pertaining to higher education in 1976. The Library of Congress identified 439 separate statutory authorities affecting higher education, however. The National Commission on Financing of Postsecondary Education, in 1973, identified more than 35 agencies in addition to the USOE responsible for some 375 statutory programs for higher education (Andringa 1976, p. 26). This is in response to the various Congressional committees empowering agencies in their specific purview with authority over those aspects of law, no matter how obtuse, dealing with higher education.

Compounding the problem of consolidation is the political reality that Committees of Congress vie for power and thus it is unlikely that many would surrender their jurisdiction over areas, even those peripherally dealing with

higher education. Should the U.S. House place jurisdiction of all 439 programs under the jurisdiction of the Committee on Education and Labor, it would immediately generate more power to that group and thus threaten the power of other committees and their members.

Bureaucracy: Another obstacle relates to the size of the federal bureaucracy and the layers involved. Not only are there different agencies assigned jurisdiction for various programs affecting institutions but many federal departments have regional offices charged with more direct field work. The problems of communication between the regional offices and Washington often result in institutions receiving conflicting interpretations and unequal treatment. One institution responding to a survey on federal regulations by the Commission on Colleges of the Southern Association of Colleges and Schools observed: "All too often, the 'official' interpretations are not in agreement with each other; yet, the College is held responsible for the 'correct interpretation' . . . confusing and directly contradictory instructions have been given on several occasions. The College has been criticized for doing precisely what we were directed to do" (*Colleges and Universities Speak Out on Cost of Federal Compliance in Higher Education* 1976, pp. 13-14).

Higher Education: While one of the strengths of American higher education is its diversity, it is also true that the fragmented approach and different goals of the higher education complex mitigate against any singular solution of federal regulation. (I use the term "complex" since higher education does not function as a "system"). Over $2 billion of federal funds benefit primarily research-oriented institutions and only $1.5 billion of HEW's $3.2 billion higher education budget is directed toward all types of institutions. As a result the impact is uneven and institutions vie for as much of the pie as possible. Many of the federal intrusions are caused by the internal bickering and internecine warfare within higher education. Federal pressures for state level planning and coordination came as a consequence of struggles between and among colleges and universities in the 60's. Competition for federal vocational education funds between the community colleges, branch campuses, and vocational-technical institutes resulted in "set aside" mandates as well as stricter requirements for use of such funds. And the struggle of public versus private institutions on the formula for the BEOG payment ceiling of one-half the tuition nearly led to an impasse in the conference committee considering the 1976 amendments.

National Associations: While the national associations representing the different institutional types and various constituencies within higher education have been indispensable in bringing about federal support and in serving as "watch towers" to identify emerging detrimental regulation, their diversity and lack of cooperation also mitigate against a satisfactory solution to the dangers of federal regulation. While some progress has been made through the efforts of the American Council on Education to establish communications among representatives of the various associations, there is still much remaining to be done before an effective "voice" of higher education could be heard by the Congress.

V. Ideas for Action

Now I would like to share some of the ideas included in the ERIC monograph for addressing the problem of federal regulation as it intrudes upon the academic and economic integrity of colleges and universities. But first, let me acknowledge a second Constitutional power being utilized by the federal government in its more recent intrusions on the autonomy of higher education. The "commerce power" delegated to the federal level covering all interstate commerce has become the basis of federal involvement in such areas as labor and management regulations and wage and hour standards. The National Labor Relations Board now has jurisdiction over labor and management relationships within private institutions and all public and private institutions are obligated to honor provisions of the wage and hour legislation. More recently, of course, the federal government has begun to assume "police powers" through its authority to regulate interstate trade and the interpretation of education being a commodity (Marjorie Webster Junior College vs Middle States Association, 432 F. 2d. 650, 655 [dc cir. 1970]). The latter police power has been most frequently associated with the proprietary sector and its placement under the jurisdiction of the Federal Trade Commission.

The point I would like to establish before suggesting future action was made by Kingman Brewster, Jr., President of Yale University, when he spoke about the "force of values" embodied in the Constitution which affirms the moral responsibilities that the means justify the end. The coercive use of the spending power and now the commerce power by the federal government to require colleges and universities to carry out national goals, no matter how worthy, is contradictory to the basic tenets of the Constitution (Brewster). In a Bicentennial essay in the December 27, 1976 *Time* magazine, former Secretary of State Henry Kissinger spoke of the need to live up to a "moral promise" as a nation as well as fulfilling "practical needs of world order." The point of his essay was that a historical analysis of foreign policy reveals an undergirding responsibility to have a moral commitment. In his words, "But peace cannot be our only goal. To seek it at any price would render us morally defenseless and place the world at the mercy of the most ruthless. Mankind must do more, as Tacitus said, than make a desert and call it peace." Kissinger and Brewster both are addressing the moral ethic which is not always written into legalistic regulation. Cheit addressed this element when describing the traditional posture of state governments to stay out of the academic and economic affairs of higher education when he observed, "Individual states have built their relationships on the most sophisticated legislative procedure in democratic government—the self-denying ordinance—by which states created and funded colleges but had only limited powers of review and control" (Cheit, p. 60). The position upon which the following recommendations are made is the belief higher education institutions are, in fact, different than business and industry or any other kind of social organization except, perhaps, the church. Colleges and universities must have a high degree of autonomy; i.e., academic and economic integrity. To accomplish this I would urge this group to discuss the possibility of the following steps:

Magna Carta for Higher Education

I recommend that a Magna Carta for Higher Education be established. Institutional autonomy and academic freedom have been claimed by many as historically accepted and inherently just guarantees in higher education over the years. Some of the objections to various federal regulations are rooted in that concept. Not all citizens, however, including many Congressmen and government officials, accept legitimacy of such a higher education claim, but just as Kingman Brewster argued that the values the Constitution embodies represent a continuing force, so too is the undergirding general acceptance of the value of a high degree of self-determination in higher education. The historic "self-denying ordinance" of the states toward higher education provides an example.

I recommend that a Magna Carta for Higher Education be developed which sets out clearly those fundamental rights and privileges which will be faithfully guaranteed by Congress. The document must clearly establish the special nature of higher education and why it should be granted a charter of liberties. The values of the Constitution and the principles it represents for a free society of believers could well be the cornerstone of such a document.

Assuming such a Magna Carta were developed appropriately and its contents were based on solid and rational foundations rather than rhetoric and academic jargon, it could well be introduced into Congress for legislative enactment. The approach to developing such a document might be one of several. The Education Commission of the States might well assume responsibility for giving direction for such an undertaking since ECS does represent the states as well as higher education. ECS carried out a less complex task of a similar nature when developing the model state legislation for approval of postsecondary educational institutions in 1973. A task force group of nationally respected leaders could develop working drafts which subsequently could be reviewed by public and private institutions, their governing boards, state legislatures, and the leadership of the respective national organizations for higher education. By garnering such grassroots support, efforts to win Congressional acceptance would be enhanced.

An alternate approach might involve a National Assembly supported by several foundations and higher education. Determination of the delegates might be patterned after the membership concept of Congress itself. The Senate for such an assembly might be two senators from each state, one coming from the public sector and one from the private sector. The House could be made up of representatives of the various interest groups determined by a formula which might guarantee representation for research, graduate, professional, and undergraduate institutions, as well as representatives of all the national higher education associations which represent the various types of institutions and the different constituents within the institutions ranging from faculty groups to alumni groups.

While there are undoubtedly other approaches for organizing in order to develop such a Magna Carta, the important thing would be to establish such a base of support that the product would become accepted by higher education in

directing its conduct and by the federal government as national policy toward higher education.

National Associations

The national associations representing the multitude of interest groups in higher education have contributed to the problem of *ad hoc* and fragmented federal legislation affecting higher education. While the associations are essential in maintaining a voice with the federal government, their entrepreneur approach will continue to increase the problems of competing federal agencies, duplicative reporting, and increased bureaucracy as long as it continues. To alleviate this problem, the associations need to understand that their constituents want all of higher education championed first and their own cause included as part of that effort rather than the reverse. This will not be easy to achieve. However, I recommend that a "United Nations" organizational structure for enhancing communication and public debate of the priorities for higher education legislation be established as one means to achieve that end.

Assuming that the membership of the various associations were to ratify such a concept, a "United Nations of Higher Education Associations" might be formed with the purpose of avoiding the tragic consequences of internecine warfare and dissension which have plagued higher education in the past. The American Council on Education, the present umbrella organization for most national associations, should take the leadership in implementing such a concept. The "Secretariat" of One Dupont Circle was organized to achieve a more harmonious working relationship among the associations within that building. Their proximity has, to some extent, brought more cooperation. The "Security Council" concept within the "United Nations" organization might well be employed to accommodate such issues as the determination of the scope of higher education to be encompassed and the priorities for national action. In a sense, just as world peace is honored as the overriding goal of the UN, so the fundamental tenets of self-determination, institutional autonomy, and academic freedom would be the overriding tenets of the proposed organization. Such a design should enhance the posture of spokespersons addressing Congressional committees for it would provide unity for the overriding purposes and yet enable national associations to be partisan for their own interests within the context of the larger purpose.

Regulation Reform

A legacy of HEW Secretary F. David Mathews may well be a series of proposed reforms which the Carter Administration could utilize in its campaign pledges to reorganize government and reduce bureaucratic red tape. Secretary Mathews had been a critic of government's rule-making and reporting requirements even while President of the University of Alabama. He created an Office of Regulatory Review aimed at internal reassessment and redirection. In addition, he designated the work group described earlier which developed 15 recommendations for reforms which would create a central agency for writing rules dealing with particular program areas even though the legislative program might involve several different agencies. Furthermore, the report recommended the establishment of a single agency responsible for collecting all data on higher

education. I recommend that all higher education see to it that the new Administration gives serious attention to the proposals for reform developed under Secretary Mathews. If the Carter Administration does not implement those recommendations, then colleges and universities together with their national associations should press vigorously to see that some alternate plan is developed and that needed reforms are, in fact, implemented. Action during the immediate year from higher education is essential in order for the new administration to become aware of its strong and vocal presence.

Among the reforms for regulations should be involvement of higher education institutions during the design stages of new regulations. Furthermore, the concept of trial regulations should be examined whereby some pilot institutions voluntarily work with the regulation agency over a trial period using the regulations as part of a "shakedown cruise." Such an approach for some of the controversial programs in the past would have avoided the furors which took place.

Economic Impact Statement

I recommend that the concept of an economic impact statement proposed by President Olds of Kent State University, in his testimony before the House Subcommittee on Postsecondary Education, be supported by higher education. Under this concept, any agency developing regulations would be obligated to determine the economic impact upon institutions of higher education caused by the cost requirements for implementation and administration. This concept would be particularly beneficial for programs enacted by Congress not directed specifically toward higher education as the ACE Study demonstrated. Under President Olds' plan, Congress could anticipate some standard of reasonable costs for implementing the law and then agencies developing regulations which impose greater financial burdens would be required to modify the regulations or reimburse institutions for their added costs.

ACE Task Force

I recommend that the American Council on Education or ECS establish a Task Force charged with studying the appropriate organizational structure at the federal level dealing with higher education. The present trend toward centralization of power is antithetical to the things being sought by higher education and since governmental reorganization is a possibility over the next several years, higher education should act anticipatorily and with vision. Rather than sit and wait for something to transpire and then attempt to react, colleges and universities must begin serious study of the alternatives which would best serve the nation and higher education as well. Arguments have been advanced for centralizing all federal activities related to higher education yet dangers become immediately apparent. Some have argued that the fragmented and diffused organization presently in existence serves higher education well, yet problems obviously exist. A serious examination of the alternatives and the consequences is needed soon so that higher education can make its proposal to the new administration.

An Institute for Independence

I recommend that the proposal of President Elliot of the George Washington University for an Institute for the Preservation of Independence of Higher Education be supported. Under this concept, an institute free of any governmental obligations would examine all existing federal laws and regulations and carry out objective studies of the actual effects they have on colleges and universities. The institute as proposed would provide for objective studies and broadscale surveillance of existing and new legislation and regulations and would enable Congress as well as colleges and universities to have objective information on the costs and on the internal infringements associated with each. Preservation of the independence of higher education represents one of the most critical problems confronting America today.

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MAKING FEDERALISM WORK

Warren G. Hill

My first words to you are of good cheer: The negativism implied in the title cannot be sustained. Federalism works! It may not work **well**, but it is out there, struggling along!

When I accepted this assignment, I did what any bona fide educator would do; I went to my *Webster's Collegiate Dictionary* (that means it's the one I had when I was in college) and looked up *federalism*. Mr. Webster identified this as "the principles of the federalists." That didn't help much; so I chased down the federalists and found that they were "advocates of a federal union among the American colonies after the Revolution and the adoption of the U.S. Constitution." Fellow federalists, the Constitution has been adopted, and we are here to examine how to make that federal union (also established) work better, if you will, in the area of education.

Let us go a step or two further in the definition area, and let us agree to limit our discussion to higher, or postsecondary education. Let us also agree that the basic problem is, as recently stated by Sam Halperin and George Kaplan (Halperin, p. vi), "the linkage between Washington and the state capitols," although there are certainly other players on the field. Dr. Durham, Dr. Bender, and Dr. Ostar have all touched on institutions and their involvement in federalism. Allow me, by choice, to concentrate on the state-federal relationship.

In this limited context, I would ask and partially answer a number of questions:

A. Who are the players on the field? At the federal level, there are two kinds: the Congressmen, who legislate, and those who are in the executive agencies who carry out the legislative mandates.

   At the state level, we have the Governor, the legislature, the statewide agency for higher education, and those who represent the institutions: trustees, presidents, faculty members, students, alumni, and others.

B. What is at stake? There are a number of things. Money is the first. I hesitate to put money at the top of the list, but that's where it seems to be these days. When Dick Millard did his annual poll of SHEEO members, asking for priority problems, finance shook out on top. When ECS asked its commissioners last spring what educational problems most gripped their states, the first answer was finance.

   The federal government puts in roughly 10 percent of the money, but **how** it is distributed and who gets it, and for what, remains a matter of great

interest. The amounts involved are significant. Rufus Miles, covering a 47-year span, notes that the federal government in 1930 appropriated *$11.8 million* for *all* education. In 1977, the amount estimated for higher education alone exceeds *$3.5 billion* (Miles, pp. 21-25).

Program development is also at stake. Who gets to say what should be done? At what point does encouragement become domination? Is it in the national interest, or in a state's interest, to increase the supply of optometrists? And if it is, how can that increase be supported?

Time, effort and frustration are required to accomplish tasks in a bureaucracy. This is a negative good, but if you're good at it, and invest enough resources in it, you win. It includes the following:

(1) Understanding the statute, possibly contributing to its development, filing briefs, or appearing at hearings.

(2) Understanding the regulations, possibly having some input into their development, balancing pleas for brevity with the inclusion of provisions that favor your particular enterprise.

(3) Filing a plan.

(4) Making reports.

(5) Being audited.

(6) Seeking extensions.

Federalism, as it works, involves these kinds of activity. Beyond the theory of different levels of government working together cooperatively towards common goals, there is the need for **procedures**, for **specifics**, for **assurances**, for **compliance**, for **demonstrated results** which justify the expenditure of public funds.

C. What else is involved? Pride, concern for quality and survival, the feeling that major directions are being taken without an appropriate assessment of potential results are all involved.

Who has the right to determine the percentage of our efforts that should go into community service? Why should we employ or promote individuals because of their color, primary language, or sex when others, clearly better qualified, are available? When funds go to individuals rather than to institutions, are we not placing too great a reliance on the ability of 18-year-olds to make valid choices among diversified institutions, and are we not risking the demise of resources that have been planned and developed with great care and at great cost?

D. What motivates the players? Let me suggest a few factors that may have validity. I'll take them from the top.

(1) Political leaders are sustained, at least in part, by activities that command the attention of their constituents. One way of enhancing visibility is to advance a solution to a complex problem, a simple, understandable, attractive solution that may reflect personal belief but which may not be adequate to the purpose.

A president of the United States makes a commencement speech and extols the value of vocational training. In the days and weeks that follow, federal agencies, with Pavlovian consistency, hold conferences, initiate programs, and provide funding in vocational training for those who elect to follow the Grail.

(2) Congressmen are programmed to legislate. They provide evidence of their activity and effectiveness to constituents by making it known that they introduced nine bills in the last session and six of them passed.

Congressmen become, properly, concerned about a problem. They propose legislation because that is the accepted way to provide alleviation. They also, in too many instances, act on the belief that the states are doing nothing about the problem or are incapable of doing anything.

(3) Federal agencies are driven by the need to make certain that appropriated dollars are spent for the purpose for which they were provided. They insure accountability by a series of activities that can withstand legal and audit challenges and which require extensive staffing. They interpret the law, issue regulations, require plans, establish reporting procedures and arrange for audits. They are careful, well-intentioned and busy people.

(4) At the state level, I will not attempt to trace the motivations of all the players. Certainly governors and legislatures have their own agendas. Statewide coordinating or governing agencies are driven by responsibilities that are all too often impossible of achievement. Institutions move on conviction with respect to quality, but also on the basis of the fear that their "turf" will be invaded, that falling enrollments will eliminate jobs, and that other institutions by using alternate programs will compete unfairly with them. Instead of dwelling on the potential conflict between and among these groups, I prefer to note a source of confusion which commands but gets much less attention and which is considerably more important to this discussion. When we talk about state-federal relations, **who, in fact, is the state**? Is it the governor? The legislature? The state department of education? The statewide governing board for higher education?

We live in a time when the economic problems of many states are worsening, when the tug-of-war between governors and legislators is intensifying, when decisions are having to be made **not** to initiate or support or increase support for

socially desirable programs. There is concern about the state being committed to long-term costs outside of the procedures established to make such commitments. The federal government writes legislation which specifies who the state is; it identifies "sole source" agencies with whom it will do business. By so doing, it denies differences among the states and its own commitment to not dictating organizational patterns to states.

E. What can be done about all this? How, indeed, can federalism be made to work better? I could answer, facetiously, in a number of ways: reduce the number of states; require congressmen to meet, once a month, with the members of their state's legislature, or with legislative leaders, back in the old home state capitol in a room with the door locked; mount a public relations campaign to adopt scoring techniques from golf rather than basketball in evaluating legislators: the lower the amount of legislation, the higher the rating!

These are obviously not helpful suggestions. The following, hopefully, have enough merit to warrant serious consideration:

1. Because all levels of government have a legitimate interest in education, the role appropriate to each segment should be identified. Who might do this? The Institute for Educational Leadership might, we might at the Educational Commission of the States, by bringing together the appropriate representatives and then mounting a continuing campaign for acceptance.

   What might the roles be, in essence? The federal role might be to identify national objectives to be sought and provide assistance to those who would seek them. The state might provide the legal basis for education, establish the policy bases upon which education will be provided, and create and nurture the institutions required for delivery.

   Finally, the institutional role may consist of providing the trilogy of instruction, research, and public service with the highest possible degree of institutional autonomy.

2. The position of the state in relation to the federal government should be developed. First, the federal government should be urged to include, in all educational legislation, a condition that the definition of the term *state* (with reference to that particular statute) shall be defined *by each state* after the federal law is in place.

   Second, this procedure, once in place, would require a closer working relationship, at the state level, among all affected offices, agencies and departments. You would, in essence, have to evidence your ability to speak for the state and to set forth the state's position before you would be chosen to do so.

3. **Policy** should be emphasized and the need for compatible, rather than competing, policies. The Educational Commission of the States is involved in a major policy synthesis and formulation activity. Before states act to initiate programs, they need to not only know all there is to know about the problem, issue, or opportunity undergirding the program and what other states have done; they need to know on what policy basis other states have acted and what the range of viable policy alternatives is.

   The federal government needs to know all of this, also, before it legislates. We have done too many things in the name of expediency, on an *ad hoc* or unexamined basis or solely for political reasons. This may always be the case, somewhere, but the number of instances should be sharply limited.

4. There must be an effort to get the "feds" out into the states. Only so many people can traipse into Washington, and they normally journey there for very limited reasons. Congressional committees should be encouraged to hold hearings around the country. Beyond that, opportunities should be created for congressional staff members to visit the hinterlands and see programs in actual operation and to discuss them with the "hands on" practitioners. Congressional staff members are critically important individuals, and they may have less than an accurate impression of what is actually going on.

5. We must abolish or minimize federal requirements for state plans and the issuance of regulations. This is heresy and would be most alarming to those who vote or administer federal funds. I do not mean to be alarming; I wish to be a realist. If federal statutes set out the objectives to be sought, funds could be released on the attestation of a governor that funds received in that state would be utilized for that purpose. Would the whole system fall apart? I doubt it. The reasons are simple:

   (a) It would be difficult, considering the fiscal situation in most states, for governors not to seek substantial available funds.

   (b) We are a litigious society. Any governor that permitted the funds received to be used for other than the stated purpose would be challenged and brought to court by those aggrieved.

   (c) Audit procedures would still be in effect.

6. Have the "feds" stop treating all states alike. Some states have mounted almost every possible program for improving education and educational opportunity, and some have done much less. Some have sophisticated and proven procedures; others have not. Some have demonstrated accountability in all respects; others have not.

   It would be possible, for example, for the federal government to establish criteria which, when met, would permit a state to qualify for block grants covering a number of programs and then be allowed discretion in

determining how much support would go to each program. States which did not meet the criteria would continue to receive separate grants for separate purposes.

7. And finally there should be an effort to eliminate surprises when so many are involved in pursuit of the same objectives; it is easy not to keep each other informed and to take actions that gain an advantage for the proponent but diminish the total effort. After we obtain agreement on objectives to be gained, there should not be last minute changes in definitions that create additional eligibilities, changes in formulas that unnecessarily reward, or changes in procedure that inject unwarranted authority. Everyone's opinion must be heard; but after objectives and a general strategy are agreed upon, the end runs should be minimized. We owe them full visibility when they do occur.

Federalism may, indeed, be at the crossroads, but it cannot be allowed to falter or take the wrong turns. For all of its faults, it is the best vehicle available to us, and we must keep it in constant repair.

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ADVICE FOR POLICY MAKERS: TODAY AND TOMORROW

John D. Millett

The subject assigned to me on this occasion is both intriguing and complicated. I am intrigued by the prospect of offering advice for today and tomorrow. In the context of this occasion it is obvious that such advice is expected to deal with the subject of higher education. Apart from some argument we might have about my particular qualifications to offer such advice, I am aware of a complexity in deciding just what policy makers to advise. My assignment fails to identify any particular group of policy makers, and so I am left with the task of determing just what group of policy makers I ought to address.

It is self-evident in our country, I believe, that vital decisions affecting the operation of colleges and universities are being made by the federal government and by our fifty state governments, in addition to the decisions being made by governing boards and instrumentalities of campus governance. Other important decisions are made by private foundations, by various associations of higher education officers and institutions, by research bodies, by accrediting agencies, by corporations, and others. There never has been a dearth of individuals and bodies with some interest in higher education and with an inclination to express that interest at any opportune or inopportune time.

My problem then is one of limitation. Just what group of policy makers are most in need of advice today and tomorrow? I suspect the answer to this question will largely depend upon the perspective of the person who responds. Each one of us probably has his particular target group whose policy-making role he would like to influence. And I suspect that each one of us would have good reason for both our selection and our advice.

As I have pondered my own answer to this question I have decided that the most critical element in the decision-making process about higher education for the next ten years will be institutional planning commissions or teams on each college and university campus. Here I believe are the really vital policy makers who will determine the fate of higher education in the remaining years of this century. And I have no doubts about the need for advice to these policy makers. My only doubts are those occasioned by the fear that these policy makers cannot and will not make policy.

Before I explain my choice for discussion here, let me say why I turn away from this opportunity to offer advice to federal and state government policy makers. I turn away, not because these policy makers need no advice, but because I suspect that their influence upon future events will be less far reaching

than that of institutional planning commissions. It seems to me that the role of the federal government in higher education is now fairly well fixed for the next decade or longer. That role will continue to provide support for research in the physical sciences and in the engineering sciences, in the biological sciences and in the health-related sciences. The federal government will also continue to offer some support for research in the behavioral sciences and for creative activity in the humanities and the arts. Beyond this support, I expect the federal government to continue to worry about access to higher education for youth from economically disadvantaged families, although the reason for this access will continue to be obscure or ill defined. And we may expect continued federal government intervention in professional education for medical care because our medical faculties have made such education the costliest single program of higher education and because the delivery of health care remains an important political issue for rural families and for the poor.

I want to mention one very important federal policy decision that looms upon our horizon. It is a matter to which the higher education establishment has given too little attention. Assuming that national defense will continue to be an important and fateful object of national political concern, we confront a very important manpower issue we must resolve in the near future. In the absence of compulsory military service based upon selection according to military manpower needs, the armed forces in seeking voluntary enlistment confront mostly youth not interested in or competent for higher education. To overcome this complexity the armed forces must make military training more and more comparable to vocational and technical education. I can see no future for a voluntary military except in making the military a competitor with higher education for the instruction of youth and for the employment of educated talent.

It seems to me that the role of state governments in higher education is now fairly well fixed for the next decade or longer. State governments will continue to be the principal source of operating income at state and locally sponsored colleges and universities for support of student instruction. The glamour in state government political support of higher education is gone, and will not soon be recaptured.

Our place in the political sun—and I speak from personal experience—was based upon two fundamental political propositions. One proposition was that a college education was the avenue by which the poor in society could escape their poverty. The second proposition was that higher education contributed substantially to the economic growth of a state. We contributed educated talent to a labor market voracious in its appetite for new technical and managerial abilities; we contributed knowledge and applied science useful in providing new products and new productive processes for a growth-oriented economy.

Today the bloom is gone from both propositions. Higher education by and of itself did not prove a certain avenue of escape from poverty, especially for those poor who had little intellectual interest or competence. And America has lost its confidence in both the desirability and the possibility of continued economic

growth. The demand for educated talent has slackened off. Technology, we have learned, can be expensive in pollution of the environment and in its demands upon social institutions. A different America from the one we knew from 1945 to 1975 will want and expect a different higher education.

I see our state governments, and our state boards of higher education, caught in the discomfort and uncertainties of an essentially rear-guard action. Our state and local colleges and universities will continue to want more instructional income. Faculties continue to want higher salaries, and now they have a new reason to spread the instructional load among a sizable number of faculty members in the interest of maintaining employment and job security. Administrators will need more money for support services, including professional and operating salaries, higher costs of energy, additional student services, and the expenses of compliance with a host of federal and other regulations. Against these demands for more income, state governments will slowly give way in meeting some but not all expectations. The competition for appropriations among particular public universities and colleges and among systems of colleges and universities will intensify. The era of raw political power may reappear, with the financial advantage to those institutions whose areas have the most legislative votes or the most influential legislators.

I am not sure that there is any advice one can offer state governments in this situation. We shall hear more demands similar to that of the Governor of Connecticut in her opening address to the state legislature this January, a demand that the legislature create a single statewide governing board with a single statewide administrator upon whom can be placed the awesome, indeed impossible, task of keeping every university and college in its proper place. The trouble is that no two public institutions have ever agreed upon the proper place for each other, and each one will necessarily behave upon the conviction of its individual worth being superior to that of any other. We may continue to hope for organizational solutions to substantive problems, but I am not optimistic about the consequences.

And so I pass by the temptation to offer advice to policy makers within the federal government and within our state governments in order to concentrate attention upon advice to policy makers, and more specially to institutional planning commissions, without our individual campus settings. As I have said, I take this action in a firm belief that it is at the campus level that the most important matters involving higher education will be resolved in the next few years. I fail to see how either federal policy makers or state policy makers will be able to decide these important matters.

The critical issue here then is what are these most important matters to be resolved on our various campuses, and on this score I confess to no doubts of any kind. These most important matters are what we teach and why we teach. I think it is clear that in the age just ended, golden age or growth age or whatever, our colleges and universities taught primarily an empirical knowledge representing the triumph of the scientific thrust in Western culture. We sought the end of ideology and the harnessing of religious dogma through the victory of an

amoral, instrumental pragmatism. What worked was good, and for a long time indeed our science and our technology worked well indeed. And we shall continue to need and use science and technology. But only now are we beginning to realize what a distinguished philosopher of science warned us many years ago, that science has limitations.

Today we hear faculty members saying that the purpose of higher education is not to earn a living but to live a worthwhile life. We hear faculty groups lamenting the demise of a liberal education, and asserting their freedom from the tyranny of the labor market. Students, we hear, should study not to obtain a job but to find personal intellectual satisfaction. We must continue to provide educated talent for the economy, we are constantly saying these days, but we must also provide educated persons for society.

Now I have no quarrel with this newly discovered goal in higher education. My quarrel is with college and university behavior that proclaims change but practices the good old comfortable and familiar scholarship. Our colleges and universities are already vigorous in proclaiming a new day of learning in America, but then are in complete disarray when it comes to policy making and decisions essential to accomplish that new day. My advice to campus policy makers is to desist from proclamation and to assist meaningful change.

For lack of a better term I must employ the designation "civic virtue" to suggest the new, or rediscovered, ingredient in what we teach. In the absence of this ingredient we shall remain committed, as in the past, to a scholarship that emphasizes an empirical knowledge and a pragmatic set of values in our teaching, and in our justification for teaching. The word "civic virtue" has such an archaic ring to it that it needs careful delineation in our time. But essentially I have in mind a knowledge that includes an avowedly ethical sense of obligation of one person to another in society.

I have been reading recently an insightful exposition about the realities of family life in our society today. The breakdown of family loyalty, solidarity, and mutual assistance is attributed largely to the egocentric and highly individualistic attributes of human behavior that have gained so much ground in the past forty or fifty years in this country. I am disposed to think that if this diagnosis is correct, then much of the explanation for these circumstances must be found in what we have taught in our colleges and universities. We have emphasized a knowledge of individual utility rather than a knowledge of social awareness and concern.

No matter how much we protest the criticism, I think it is factually accurate to assert that our scholarship has for at least fifty years, perhaps longer, been guided by two thrusts, a thrust toward instrumental utility and a thrust toward an ethically neutral standard of social behavior. I have a certain sympathy with both inclinations; and I would argue strenuously that both have, in fact, provided some important advances in our culture. We have made knowledge useful in the service of society. We have freed ourselves from an authoritarian religious domination. But in the process we have neither achieved the perfect

society nor concluded successfully the pursuit of happiness. And we have learned in this century that a secular authoritarian domination can be as ruthless and as powerful in the control of the individual as was ever any religious domination.

Much of the individualism of current society is reflected in the individualism of faculty operation. Away from our campuses, very few persons seem to understand that the management of the educational enterprise is not vested in presidents, vice presidents, or deans. The management of the educational output of a college or university is vested in the individual faculty member and in the separate academic department. Here the important decisions are made about the educational product: decisions about its nature and its quality, from the educated student to the research report and to the demonstration of the use of knowledge. When the college or university structure was described as an organized anarchy, the two behavioral scientists making that observation had found a profound truth. Our colleges and universities are well and centrally managed in the performance of their support programs but they are less well managed and highly decentralized in the handling of their output programs, which are after all the end purpose of colleges and universities anyway.

Let us assume for the moment that faculty members are sincere and committed when they say that they are more interested in teaching students to live than to teach students to make a living. If our teaching is intended to provide personal satisfactions in knowledge and to strengthen the moral purpose of man, it must surely follow that our teaching will have to be different from before. The objective of instruction becomes no longer individual competence to use knowledge or even to advance knowledge; the objective of instruction becomes individual competence in understanding man and his environment. And the objective of instruction is not to expound the virtues of man, the atom of society, so much as it is to expound the virtues of man in a civic relationship to all other men.

Beyond the content of teaching I see the new learning as involving a new economics as well. The economics of scholarship was based upon utility. Higher education produced the weapons of victory in war, produced new weapons of defense, produced the conquest of age-old and dreaded diseases, produced space exploration and a man on the moon, produced new means of mass communication, produced well-prepared talent. These were all valuable outputs, and the laborer must be paid worthy of his contribution. The economics of higher education became the economics of value produced.

If the new learning is no longer to be the learning of utility but the learning of the person as social worth, then the new learning must develop a new economics as well. We cannot ask society through governmental subsidy, through philanthropic allegiance, and student payment to finance a learning of civic virtue in the same way as society financed a learning of utility. Here is the hardest piece of advice to give the campus policy makers of our day. What is the fair wage to be paid for a learning of civic virtue? I know no ready answer to

offer on this score. I know only that the fair wage may be different from the one that prevailed before.

The difficulty is that colleges and universities suffer from all the economic rigidities and constraints as other enterprises: the railroad business, the automobile business, the retail trade business, the entertainment business. Once we achieve a particular level of cost, and of personal service costs, we have little incentive to cut costs and to reduce prices. We prefer to maintain costs and to go out of business rather than to reduce costs and extend our market through lowered prices.

Many college and university presidents today see not a new learning as the faculty response to a changing external environment but faculty collective bargaining as the probable response. And there is reason indeed why presidents should expect this response; the event has already occurred on many campuses. With our passion for statistical enumeration, we even keep score on the latest collective bargaining elections, the latest count of collective bargaining agents, and the latest number of collective bargaining agreements. In their dilemma—in their failure to find agreement about new instructional objectives and in their fear of change—faculty members see collective bargaining as the way out. This vision is about of the same quality of intelligence as the vision of governors about the organizational superiority of a statewide governing board and a statewide higher education czar.

Faculty collective bargaining is above all else a faculty commitment to the economics of utility. Faculty collective bargaining says in effect we as faculty members are determined to maintain our salary levels and to advance them. We expect society through government subsidy, philanthropy, and charges to pay us the fair salaries we deserve in return for the services we render, and those services are primarily utilitarian. We shall continue to provide educated talent to the labor market and produce other useful outputs. If market demand declines, we don't cut costs but we reduce output. We lay off the most recently hired, we cut back on services rendered, but we maintain our costs, including our pay.

If faculty members resort to collective bargaining, then faculty members will have to surrender their management prerogatives, in my judgment. Faculty members cannot have it both ways; they cannot be both workers and managers under a collective bargaining agreement. The management of the educational output must then be based upon deans, vice presidents, and presidents. The expected contribution of the worker to the output, the terms of employment and the working conditions will be set forth in the collective bargaining agreement and will then have to be fulfilled by the worker.

If I were a college or university president today and was concerned primarily with my managerial role, I would welcome faculty collective bargaining. If I were a college or university president today and was concerned primarily about my role as educational philosopher and leader, I would oppose faculty collective bargaining as a counterproductive response to the needs of a changing society for a changing higher education.

On numerous campuses today I find an organized team effort being made to look carefully both at the external environment of the college or university and at the internal assumptions about mission and resources. In some instances I have found institutional planning commissions made up of faculty members, students, alumni, trustees, and administrators. In other instances I have found planning committees with faculty, student, and administrator membership. The institutional planning commission presents its recommendations to the governing board; the planning committee presents its recommendations to a campus senate and to the president, who in turn advise the governing board.

The defect of planning commissions and planning committees is a simple one. Both arrangments are useful in reviewing the well-known dimensions of a changing external environment. Both arrangements are usually able to agree upon a description, even an analysis, of where the college has been and what it has done in the past thirty years. But when it comes to recommendations for change, the planning commissions and the planning committees are likely to fall apart. And they fall apart for two good reasons. First of all, faculty members are by no means in agreement one with the other about desirable changes in their behavior. Secondly, if they could agree, faculty members are then confronted with the prospect of central, or campuswide, decision making about instructional objectives, instructional procedures, and instructional evaluation. Organized anarchy in educational output may thus become an arrangement of the past. Few faculty members are prepared to move that far.

Presidents and other administrators frequently assert that they know what needs to be done on a campus. The reality or the expectation of enrollment decline must be offset by reductions in force, by the enrollment of new kinds of students, or by new service outputs, such as more noncredit instruction. The reality or the expectation of declining income must be offset by a reduction of costs, or by the generation of new income from government subsidy, philanthropy, or charges to clients. The reality or the expectation of increasing costs must be offset by a reduction of input expenses or by the generation of new income.

I believe the planning problems of colleges and universities can be considered under these four headings: changing enrollment, changing programs, changing income, and changing costs. It is my impression that most college and university presidents and their administrative colleagues are well aware of these four planning problems. To some extent they have developed lines of action. For example, they see the need for more "new" students: part-time students, older students, employed persons, persons with extensive job experience, persons with limited intellectual competence. The potential of this new student market has been only casually explored up to this time.

I would insist that the old learning will not be adequate for the new students, if there are new students to be recruited and enrolled. We shall not find the new students with the promise of better jobs as a result of our instruction. That kind of promise can only come under the heading of false and misleading advertising in the years ahead. We may find the new students with the promise of personal

satisfaction and a heightened awareness of civic virtue based upon Western man's long search for social justice.

A good deal has been done in higher education to project resource requirements, given current patterns of expenditure and expenditure growth. But we have done almost nothing yet to identify the academic departments whose income generation is far below their cost, and we have done even less to experiment with means to motivate economic consciousness and economic change at the level of the academic department.

A good deal has been done to search for new sources of income. Our public colleges and universities are asking their state governments for more income, although the reason why such increased governmental support should be forthcoming has been but poorly articulated. The faculty position seems to be that since airline pilots get more pay, they should too. Or maybe the comparison is with transportation and sanitation workers in New York City. Our independent colleges and universities are also turning to state governments for financial assistance, and in some instances state governments have indeed responded, as in New York, Illinois, and a few other places. Needless to say, state university presidents are less than enthusiastic about the prospect of state government assistance to independent institutions.

Faculty members look also with some favor upon more state government subsidy. One of the arguments in favor of faculty collective bargaining is that an alliance with school teachers or with the AFL-CIO will result in more effective lobbying at the state capital and will help to protect a fair share of the state government dollar for higher education. At the recent annual meeting of the American Historical Association in Washington I even noticed some unemployed historians talking about a federal government employment program for historians.

Many colleges and universities, independent and public, are launching new efforts to increase the philanthropic support of higher education. Here again the case for assistance needs to be based upon something more than tradition and old loyalties. In some instances, certain colleges and universities can properly assert their unique role in maintaining high standards of intellectual achievement, the cultivation of outstanding talent, and the encouragement of scholarship. In other instances, certain colleges and universities may appeal to the allegiance of particular religious ties or community involvement. In still other instances, certain colleges and universities may ask for assistance in undertaking a new learning for new students. Whatever the case, the appeal must be clearly and effectively presented.

And many colleges and universities are reviewing the economics of their pricing to students and to other clients. In some circumstances prices may be too low. In other circumstances prices may be too high. Much more attention is needed than ever before to the economics of higher education pricing in this country.

I trust that I may have outlined the current campus planning scene in sufficient detail to indicate why I consider this particular arena the critical situation in the years ahead. It is easy for the state university to say: let the state board and the state government make the policy choices and we shall respond as directed. It is easy for the church-related college or university to say: let the church provide us adequate support or let the church forget any role in higher education. It is easy for the non-church-related independent college or university to say: we want government financial assistance so we can continue our mission as in the past. None of these kinds of responses to a changing external environment is adequate. None of these kinds of responses to an internal set of invalid assumptions is adequate.

Perhaps indeed, as some declare, the campus planning problem is complexity of governance, is a time-consuming and inadequate structure of effective decision making. I am not yet willing to concede that campus governance must be pronounced a failure. I think campus planning can still illuminate, indeed spark, campus governance. It is too early to abandon the ship. This advice is the advice I would offer campus policy makers, both today and tomorrow.

THE FEDERAL GOVERNMENT AND HIGHER EDUCATION: AN OVERVIEW

Russell I. Thackrey

Prior to World War II most states either did not have "systems" of higher education in the sense of an over-all authority, or in some of the cases in which there was an authority vested with responsibility for the public system of higher education the actual amount of system control exercised was not great, at least in the case of the major institutions. The book, *Higher Education in the 48 States*, published by the Council of State Governments about 1948 gives the composition and powers of the various boards. Even in states such as Kansas, which had long had single boards controlling all degree granting higher education, there was a high decentralization of responsibility; and certainly New York was the only state in which a unit with responsibility or authority to coordinate or be responsible for both public and private higher education existed. Prior to and for some time after World War II it was accepted that higher education was a state (local and private) responsibility, and the general trend was toward isolating the authorities responsible for it from partisan political influence.

It is, of course, trite to say that the post World War II period brought considerable change. First there was the vast expansion of support of scientific research. During World War II scientific talent from over the country was pretty much concentrated at a relatively few institutions. This was, of course, justified as part of the war effort, but it also had the effect of increasing the relative concentration of talent at the expense of other institutions and areas. Kansas State, for example, lost its best and brightest young mathematicians to the Hopkins Applied Physics Laboratory. They didn't come back, and it took some years to replace them. The same story was repeated over and over. Of course in many cases, the individuals did come back, but certainly institutions such as M.I.T., Chicago, Cal. Tech., The University of California, and so on were considerably strengthened relative to other institutions during the war period.

There is in this country, as in every country I suppose, an ongoing struggle between the elitists and the rest of us. The elitist view is, for example, that scientific research and the training of scientists should be concentrated in those institutions which are best equipped to do it, which have the best records of past accomplishment. The problem with this approach, carried to extremes, is of course that new centers of strength, institutionally and geographically, have no opportunity to develop; and that young people of talent in some areas have less opportunity to make their maximum contribution than those in others.

Such issues were involved in the political battle over establishment of the National Science Foundation in the late 1940's. Led by E.E. Day of Cornell, who though Harvard trained was a great enthusiast for the accomplishments of

the land-grant system, and by Reuben Gustavason of Nebraska, the National Association of State Universities and Association of Land-grant Colleges and Universities fought hard for inclusion of the principle of geographic distribution in Science Foundation legislation. They wanted a portion of the funds set aside, not for formula allocation to specific institutions as in the agricultural experiment station acts, but as a fund in which first priority would be given to sound applications from a particular region. This proposal was twice adopted by the Senate, primarily through the leadership of Senator Wayne Morse of Oregon. It was vigorously opposed by the establishment which lobbied furiously against it and prevailed each time in the House. When it appeared that opposition in the House was so adamant that the Science Foundation might not be established unless the Senate receded on geographic distribution, the two associations finally yielded, though winning certain compromise wording which said in effect that geographic distribution was important.

Another important legislative decision of the 1940's with profound future effects was the methods of payment incorporated in the educational features of the World War II GI Bill. The terms of the bill provided that the federal government would pay the individual veteran a specified monthly sum (the same for all veterans similarly circumstanced) to help with living costs, would pay to the institution attended its customary tuition fee up to a certain limit, and furnish to the veteran required books and supplies.

The terms of this bill were, in fact, highly discriminatory against public institutions, and quite generous to most private institutions. It also discriminated financially against states and localities which had made special efforts to make higher education available at low cost to their young people.

For example, if two institutions had identical costs of instruction, and one charged no tuition fee (as was the case with City College of New York) and the other a $750 fee (high for the time), the Federal Government would pay the first institution nothing towards the education of a veteran student, and the second $750. Many public institutions found themselves (in an era of biennial legislatures) faced with appropriations made for small wartime enrollments, a sudden influx of returning veterans desiring enrollment, and tuition fees utterly inadequate to supply the needed instructional staff and supplies. Furthermore, if they increased fees in order to receive more funds from the Veterans Administration, they must at the same time increase them (and so penalize) the nonveteran woman or man student. A compromise was finally worked out (with great difficulty and much effort) under which public institutions could be paid the actual cost of salaries for classroom instruction, plus a 15 percent override for teaching supplies in lieu of the customary fee. The instructional cost was arrived at by adding up all **instructional** salaries and all credit hours taught and dividing the latter into the former, arriving at an average teaching cost per credit hour. Aside from the 15 percent override, the formula made no provision for the cost of plant operation, libraries, administration, and the like.

Abuses of the tuition provision of the World War II bill, especially in the private for profit field, were so great (as were abuses of the provision of

furnishing required books and supplies) that the House Veterans Committee following an investigation asked for recommendations for change. The plan adopted was essentially one developed by the Veterans Committee and Executive Committee of the Land-grant Association, with the cooperation and approval of the National Association of State Universities and subsequent backing of the American Council on Education. The Land-grant group considered recommending that all institutions go on the cost of instruction formula but decided that private institutions would be wholly unwilling to open their books to demonstrate cost, or be subject to public audit (as were those of institutions using the cost of instruction formula). So they recommended that the GI Bill of the Korean War provide for an increased payment to the veteran to cover the average cost of books and supplies and that *no payment of any kind* be made to the institution. All veterans similarly circumstanced were to be given the same flat amount, and with this and other funds available to them, to be responsible for their own tuition, books, supplies, and subsistence. This proposal was fought bitterly by textbook publishers and by a hastily organized group of private colleges. But it was enacted into the law, and wiped out the great abuses in the private for profit field and in the textbook and supplies area, saving the government literally billions of dollars.

This principle has been followed in subsequent veterans' legislation for the Vietnam War. But the example of the World War II bill has had a lasting effect: it was a great fiscal period for institutions heavily dependent on tuition and fees. Such fees were often increased substantially, and in many cases nonveteran students were given scholarship aid from the increased revenues generated by veterans!

I first became aware of the importance which the First Amendment issue was to play in the shaping of federal legislation affecting higher education when working with a committee of the Land-grant and State University group on legislation for federal aid to supply the need for college housing. It then became clear that the post-war "GI Bulge" would be followed by a far greater enrollment upsurge as a result of the sharp post-1940 increase in the birth rate. Frank Brown of the American Council on Education and I went to see the top staff member of the House Banking and Currency Committee to discuss a proposal for grants and loans for college housing. This man (a strong church member) was sympathetic to our request but wanted to know if there were ways in which church-related colleges could receive grants. He felt that low-interest loans secured by the property built would pass the First Amendment test. After discussion, he concluded that there was no feasible way for grants to church colleges to be held constitutional; so he said, "There won't be any grants." And that ended the discussion of grants. This was in the late 1940's.

In the mid 1950's the launching of Sputnik gave new incentive to the forces pushing for a much greater federal role in educational finance. Again the church-state issue played a major role, though it was not much talked of in the public media. But it was clear that whatever aid was available to higher education, or participants in it, from the Federal Congress, *had to be available to*

all institutions regardless of church relationship (other than seminaries) or it could not be passed!

Thus came the development of (1) the categorical approach and (2) the increased push behind aid channeled through or attached to individual students, on the theory that such aid is not really in contravention of the constitution if it happens to wind up in an institution which might not constitutionally receive it directly.

So we had the National Defense Education Act, with loans to students (convertible into partial or full scholarships if they went into teaching) originally limited to teachers of "science, mathematics . . . , etc." And we had all sorts of categorial programs—for equipment, for libraries—you name it.

The Higher Education Facilities Act of 1963 perhaps marked the beginning of a federal trend toward mandating the nature and composition of state bodies dealing with higher education, or certain aspects of it. The Kennedy Task Force on Education, of which I was a member with responsibility for developing its higher education component, recommended a program of **grants** and **loans** to help provide facilities. President Kennedy was in favor of the program but also very sensitive about the possibility of the charge of violating the First Amendment. (Robert Kennedy, as Attorney General, produced an opinion on federal aid to education, which reached the conclusion that federal aid to church-related elementary and secondary institutions was unconstitutional but that federal aid to church-related higher institutions would be constitutional.) President Kennedy recommended *loans* but not *grants* for higher education facilities, but members of his administration privately assured representatives of higher education that the president would be happy to sign a bill which provided also for grants for facilities if we could get Congress to pass it. Such a bill in fact reached final passage in December following Mr. Kennedy's death in November, but there is little doubt that had he lived he would have welcomed and approved it.

The Bill contained a provision, recommended by the Kennedy Task Force, requiring the appointment or designation of state commissions representative of higher education. These commissions had the responsibility of recommending priorities for grants under the program in the event the amount of applications for grants exceeded the formula amount available to a particular state. This provision really was the idea of Homer Babbidge, head of higher education in the the Office of Education in the latter part of the Eisenhower administration. The idea behind it was fairly simple. There would be a great demand for grant funds initially, and Congress probably would be slow to appropriate anywhere near the sums needed to meet the grants authorized under the bill. If the Commissioner of Education had to select from all the applicants the few institutions which would get grants, Congress probably would be deluged with complaints, and the bill thereby would become most unpopular with Congress. Hence the idea of requiring the establishment of state groups representative of its higher education interests and giving them the job of determining priorities with federally established guidelines. This idea was adopted, and it worked for the purpose

originally intended but had long-range consequences I did not foresee when I was a party to its recommendation.

What happened was that the U.S. Office of Education (Peter Muirhead particularly) and the Congress liked the idea of decentralizing by requiring appointment of state commissions so much that they began pushing it in higher education bills generally: as in the Extension and Community Education Act, 1202 Commissions, and the like, along with the insistence on requiring state plans for this and that purpose.

This kind of legislation tended to increase the involvement of incumbent governors in higher education, and to diminish somewhat the power of legislatures. Most of the governing authorities for higher education in the states had been established by legislative enactment (or constitutional provisions) and in general were limited to public higher education. The requirement that the state establish a new commission representative of *public and private* higher education was in general interpreted as meaning that **the governor** was to appoint the commission and that the commission would have certain decision-making functions with respect to both public and private higher education. Thus there began to appear in the various states, as a result of federal legislation, new bodies independent of those established by state law or constitution frequently named by the governor without reference to the legislature and having jurisdiction over and representation of both public and private higher education.

This kind of legislation tended to diminish or modify the authority of bodies responsible for higher education as established under state law or constitutional provision. It tended, perhaps, to begin a trend back toward more politicalization of higher education, reversing the long-term trend. By this I mean simply that the long-term trend had been toward governance of higher education by bodies established by legislative enactment or constitutional provision, bipartisan in nature, and with fairly long, staggered, overlapping terms. Under the federal legislation requiring appointment of state boards to make plans and set priorities, some governors, at least, saw the opportunity to build new authorities and constituencies directly responsible to them for their creation.

In passing, I would also note that the higher education facilities grant legislation committed the academic absurdity of requiring that the buildings for which grants were made be specifically for instruction in science, mathematics, or other designated disciplines and that the design of the buildings had to reflect this usage. This and a prohibition against use for teaching sectarian religious subjects in the buildings was again a bow to the first amendment by relating facilities grants to national security as represented by science and mathematics. Later, the House quietly dropped this requirement, permitting construction of general purpose classroom buildings with federal grants with the ban against sectarian use retained.

In the 1950's and early 1960's emphasis in federal legislation so far as aid to individuals was concerned was on getting the most talented students (by the usual indices) into college by use of federal grant and loan programs. As the

decade of the 1960's progressed (and as the percentage of students in the upper talent brackets going to college in fact increased sharply), emphasis began to shift toward the goal of making higher education accessible to all who wanted it and could benefit from it. How to accomplish this: through grants and loans to individual students or through a combination of these with support of institutions to enable them to keep charges down.

In the 1960's the number of categorical grant programs multiplied, as did the funds available for grants for various purposes, through U.S.O.E., the National Science Foundation, National Institutes of Health, and other agencies. New organizations sprang up offering their services, at substantial fees, to help individuals and institutions get federal grants. Financial rewards and prestige in higher education tended to be increasingly associated with success in grantsmanship. Newly minted Ph.D.'s, in short supply in the early part of the period, were wooed and won with promises of minimum teaching loads while department chairmen took on introductory courses and heavier teaching loads. To put it bluntly the federal reward system and the prestige system in higher education encouraged the comparative neglect of undergraduate instruction. To win federal funds and prestige, to retain and attract well-credentialed faculty, institutions put emphasis on developing graduate work and research or various categorical instructional programs for which federal funds were available to successful applicants. The large graduate fellowship program of the Office of Education encouraged this by making institutionally-allocable grants available only or primarily for the development of **new programs**.

Most of the federal programs of aid to students (and others as well) involved drains on institutional funds of nonfederal origin. Work-study programs, for example, had to be matched. Loan and grant programs likewise not only had to be administered, but more than half the money in most cases had to come from nonfederal sources.

While the federal government on the one hand exerted strong pressures (properly) for increase in the numbers of minority students and otherwise disadvantaged students in college, under provisions of the Civil Rights Act and other legislation, little or no provision was made by the federal government for helping pay the extra costs associated with helping disadvantaged students make up deficiencies.

The situation in the 1960's appeared to many of us to be (and was) one in which the federal government, through legislative statement and presidential pronouncements, was setting national goals in higher education but shirking the responsibility of providing an appropriate share of the funds necessary to meet these goals. To put it another way, new federal programs inadequately financed were draining the resources of higher institutions to such an extent that they could make ends meet only by upping institutional charges to all students, thereby creating new groups of students who had to have aid and increasing the needs of those already getting aid.

In this situation, a consensus gradually developed around the necessity for **institutional support** as a necessary part of the federal involvement in higher education. All major organizations in higher education endorsed this objective in principle. (In conversations about it with officials of other educational organizations, I described it as an attempt to extend the principles of the Land-grant College Acts for instruction to all of higher education.)

A rough formula for this purpose was developed which was at least acceptable as a basis for discussion, to most of the organizations involved, and representatives met with the legislative staff of the Department of Health, Education, and Welfare (Ralph Huitt, Sam Halperin, and Peter Muirhead were among those involved). They agreed to present the proposal to their superiors in U.S.O.E. and H.E.W. and received no encouragement whatever, as I understand it, from Secretary Gardner and Commissioner Howe. The reaction seemed to be that it would be wrong for the federal government to get involved in supporting the generality of colleges and universities, because there were some which ought not to survive or weren't worth supporting.

This strange logic, of course, ignored the fact that the program proposed involved relating a modest subsidy to degree credit hours taught and that the amount of the subsidy would, therefore, automatically shrink if and as the number of students taught diminished, and further ignores the fact that the federal government is spending millions of dollars in assisting students to pay tuition fees and to finance various categorical programs in any college which is accredited and agrees not to discriminate!

The coldness of the H.E.W. establishment toward any sort of formula support for institutions as such, coupled with the belief that the House Committee on Education and Labor was not prepared at that point in time to confront the issue of across-the-board, noncategorical institutional support for higher education, caused a turn to other alternatives by the institutions represented in the N.A.S.U.L.G.C., and subsequently in certain other groups.

Why not a categorical approach to institutional support, going through the Science Committees of Congress and administered by the National Science Foundation, which would avoid the frontal confrontation over the First Amendment issue which was considered by the House Education or Senate Labor and Public Welfare Committees? The long experience of direct federal support for a broad range of categorical purposes under the Land-grant College Acts was evidence of the fact that *broadly-based categorically-related aid* is virtually as useful to most higher institutions as unrestricted general aid in that *aid provided for one purpose frees institutional funds for use for other purposes for which specific federal aid is not provided.*

Chris Arnold, an ardent exponent of institutional support and of the science committee approach, was given responsibility for developing a formula (or formulae) for suggested use in legislation and worked long, hard, and successfully toward this end and handled arrangements for subsequent hearings as they developed.

Chairman Miller of the Science Committee proved most interested as did various other members of the Committee on a bipartisan basis. The bill was deliberately written to give preference in the formula to institutions primarily involved in undergraduate education. While there was some provision for grants based on the volume of science research funds going to the institution, this was flatly **limited in total amount**. The formula was generous in its allocation for master's degrees in the formula. These provisions obtained and retained not only the support of the American Association of State Colleges and Universities, but also that of the Association of American Colleges, representing essentially the private liberal arts colleges of the country. A proposal by them to give special credit to colleges which produced unusual numbers of students going into graduate and professional education was accepted and increased their enthusiasm.

In the hearings on the bill which resulted in its approval by the Science Committee by a one-sided, bipartisan vote, the proposal enjoyed the full support of the N.A.S.U.L.G.C., American Association of State Colleges and Universities, and Association of American Colleges. It was supported in principle by the American Council of Education, though A.C.E. showed little enthusiasm for the particular formula proposed but was not able to offer a better one. The Association of American Universities also, if memory serves, extended some moral support or at least did not oppose the bill.

Opposition to the bill came primarily from two sources:

1. The American Association of Junior Colleges opposed the formula, as being unfair to junior colleges, but made no attempt to suggest an alternative formula which would be acceptable to them. (My opinion, and it is only that, is that at the time the junior college group had hopes of getting a bill passed which would give direct federal aid only to community colleges or that they really wanted a bill which would give the same amount of aid per unit for all levels of instruction.)

2. The U.S. Office of Education opposed the bill on various grounds and by various witnesses at various times. They were making studies and the bill should not be passed until the studies were complete (i.e., the Rivlin Report, the conclusions of which were predetermined from the start).

   The United States Office of Education made the following statements.

   a. The bill was deficient in that it did not include the "humanities" and would thereby do great damage to that important area, already neglected in favor of the emphasis on science. (The bill was as broad as it could be without becoming across the board and therefore out of the jurisdiction of the Science Committee. It covered all of natural science, mathematics, and the social sciences. The fact is that institutions receiving support under the bill would have substantial resources of their own freed for use in supporting the humanities, if they chose to do so. The bill also was so

written that, in time, it could become an across-the-board bill by the simple insertion of the words *and the humanities*. . . .)

b. The bill was "unfair to small colleges" in that it gave more funds to large than to small institutions! (The facts were that most small institutions would, under the bill's formula, receive more aid in proportion to enrollment than large institutions. This is particularly true of the better private colleges with fairly heavy science-mathematics-social science emphais and master's programs.)

Fate of the Miller Bill

The Miller Bill was approved by the Science and Astronautics Committee on September 15, 1969; or rather, it was reported then with only three dissenting votes in a large committee.

Had it gone to the House floor at that time, I have reasonable confidence it would have passed and that it might also have cleared the Senate, which can act pretty quickly if it wishes—though the Senate had not held hearings. In any event, the Rules Committee simply sat on the bill refusing to clear it for the floor and schedule it for debate. I don't know why, but my guess is that the appropriations committee and the House leadership were worried about the increasing costs of the Vietnam War and other obligations and were not eager to have a new piece of higher education legislation come to a floor vote. Congressman Miller retired from the House before the bill was reported, and the membership of the committee has changed considerably. Since 1969, the Carnegie Commission on Higher Education, its successor the Carnegie Council on Policy Studies, and the Ford Foundation (through grants to D.E.D. and others) have all opposed general federal aid to higher education and pushed the idea of higher tuitions in public institutions and state assumption of responsibility for private institutions. Tuitions and college charges generally have been escalating.

The 1972 Higher Education Act, greatly influenced by the Carnegie Reports, was a disaster and remains so. While it authorized aid to institutions tied to the number of disadvantaged students admitted, grossly discriminating in amount against large institutions, Congress has never appropriated any of this aid, and the head of the Senate Appropriations Committee said at the time this would be the case. Then he voted for the bill!

There is now evidence of considerable interest in the Miller Bill, or something like it, by the National Science Foundation and sometimes from Capitol Hill. It, or something like it, is badly needed.

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